

# PLANNING COMMITTEE MEETING

Date: Thursday 26 September 2019  
Time: 6.00 p.m.  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Adkinson, Bartlett, English (Chairman), Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Round (Vice-Chairman), Spooner, Vizzard and Wilby

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

<b><u>AGENDA</u></b>	<b><u>Page No.</u></b>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Notification of Visiting Members	
4. Items withdrawn from the Agenda	
5. Date of Adjourned Meeting - 3 October 2019	
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting	
7. Disclosures by Members and Officers	
8. Disclosures of lobbying	
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
10. Minutes of the meeting held on 22 August 2019	1 - 9
11. Presentation of Petitions (if any)	
12. Deferred Items	10 - 11
13. 19/500667, 19/502295 & 19/504223 - Land South Of Forstal Lane, Coxheath, Kent	12 - 18

**Issued on Wednesday 18 September 2019**  
**Over/:**

**Continued**



**Alison Broom, Chief Executive**

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15.	19/502469 - Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent	33 - 82
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22.	TPOA/19/503752 - Land Next To 8 Westminster Square, Maidstone, Kent	121 - 124
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#### **PLEASE NOTE**

**The order in which items are taken at the meeting may be subject to change.**

**The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.**

**For full details of all papers relevant to the applications on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection by appointment during normal office hours at the Maidstone Borough Council Reception, King Street, Maidstone, Kent ME15 6JQ.**

#### **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

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In order to speak at this meeting, please contact Democratic Services using the contact details above, by 4 p.m. on the working day before the meeting. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated for each application on a first come, first served basis.

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## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 22 AUGUST 2019**

**Present:** Councillor English (Chairman) and Councillors Adkinson, Bartlett, Brice, Cox, Harwood, Munford, Parfitt-Reid, Perry, Round, Spooner, Vizzard and Wilby

**Also Present:** Councillors McLoughlin, Webb and Young

67. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Eves and Kimmance.

68. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Brice for Councillor Eves  
Councillor Cox for Councillor Kimmance

69. NOTIFICATION OF VISITING MEMBERS

Councillor McLoughlin indicated his wish to speak on the report of the Head of Planning and Development relating to application 19/503119/FULL (Great Fowle Hall Farmhouse, Darman Lane, Paddock Wood, Tonbridge, Kent).

Councillor Webb indicated his wish to speak on the reports of the Head of Planning and Development relating to applications 19/500456/FULL (Corylus Cottage, 165 Heath Road, Coxheath, Maidstone, Kent) and 19/500469/FULL (Land Adjacent to Hazeldene, Dean Street, East Farleigh, Maidstone, Kent).

Councillor Young attended the meeting as an observer.

70. ITEMS WITHDRAWN FROM THE AGENDA

19/500305/FULL - CHANGE OF USE OF LAND FOR THE ERECTION OF 6 NO. ONE-BEDROOM TOURIST LODGES - RIVER WOOD, CHEGWORTH LANE, HARRIETSHAM, KENT

The Committee was asked to agree to the withdrawal of the report of the Head of Planning and Development relating to application 19/500305/FULL from the agenda. It was noted that the applicant's agent

had confirmed that the certificate of ownership (Certificate A) submitted with the application was incorrect as the applicant did not own all of the land within the application site boundary. As a result of this, the application was currently invalid.

**RESOLVED:** That agreement be given to the withdrawal of the report of the Head of Planning and Development relating to application 19/500305/FULL from the agenda as the application is currently invalid.

71. URGENT ITEMS

The Chairman stated that, in his opinion, the update reports of the Head of Planning and Development should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

72. DISCLOSURES BY MEMBERS AND OFFICERS

With regard to the report of the Head of Planning and Development relating to application 19/500705/FULL (Hen and Duckhurst Farm, Marden Road, Staplehurst, Kent), Councillor Brice said that due to the close proximity of her property to the site, she would make representations and then leave the room when the application was discussed.

Councillor Harwood said that, with regard to the report of the Head of Planning and Development relating to application 18/505160/TPO (Land to the Rear of 90 Alkham Road, Maidstone, Kent), he was a Member of Boxley Parish Council. However, he had not participated in any Parish Council discussions regarding the proposed works and intended to speak and vote when the application was considered.

Councillor Perry said that, with regard to the report of the Head of Planning and Development relating to application 19/500705/FULL (Hen and Duckhurst Farm, Marden Road, Staplehurst, Kent), he was a Member of Staplehurst Parish Council. However, he had not participated in the Parish Council's Planning Committee's discussions regarding the proposed variation of condition and intended to speak and vote when it was considered. Councillor Perry also wished to make clear that he had not pre-determined this application.

73. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

74. MINUTES OF THE MEETING HELD ON 25 JULY 2019

**RESOLVED:** That the Minutes of the meeting held on 25 July 2019 be approved as a correct record and signed.

75. PRESENTATION OF PETITIONS

There were no petitions.

76. DEFERRED ITEMS

19/500271/FULL - CHANGE OF USE OF LAND FOR THE STATIONING OF 20 HOLIDAY CARAVANS WITH ASSOCIATED WORKS INCLUDING LAYING OF HARDSTANDING AND BIN STORE - OAKHURST, STILEBRIDGE LANE, MARDEN, TONBRIDGE, KENT

19/500200/FULL - RETROSPECTIVE APPLICATION FOR A CHANGE OF USE OF LAND AS A GYPSY/TRAVELLER CARAVAN SITE CONSISTING OF ONE PITCH - LITTLE PADDOCKS, STILEBRIDGE LANE, LINTON, KENT

The Major Projects Manager said that he had nothing further to report in respect of these applications at present.

77. 18/505160/TPO - TREE PRESERVATION ORDER APPLICATION TO MONOLITH ONE SNOW-DAMAGED CEDAR AT A HEIGHT OF 6 METRES - LAND TO THE REAR OF 90 ALKHAM ROAD, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:** That permission be granted subject to the conditions and informatives set out in the report.

Voting: 13 – For 0 – Against 0 – Abstentions

78. (A) 19/502299/SUB AND (B) 19/501763/SUB - (A) DETAILS TO DISCHARGE CONDITION 17 (ENERGY) SUBJECT TO 17/502072/OUT (210 DWELLINGS) & (B) DETAILS PURSUANT TO CONDITION 2 (MATERIALS), CONDITION 4 (RAGSTONE) FOR 18/505417/REM (RESERVED MATTERS FOR 210 DWELLINGS) - LAND SOUTH OF FORSTAL LANE, COXHEATH, KENT

Councillors Harwood, Munford, Round and Wilby stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

**Applications (A) 19/502299/SUB and (B) 19/501763/SUB**

**RESOLVED:** That the submitted details be approved with the respective informatives set out in the report.

Voting: 13 – For 0 – Against 0 – Abstentions

79. 17/504568/FULL - DEMOLITION OF THE REMAINING FORMER LIBRARY BUILDING, ERECTION OF A SIX-TO-SIXTEEN STOREY RESIDENTIAL

DEVELOPMENT OF 170 NO. APARTMENTS AND 85 NO. CAR PARKING SPACES AT THE FORMER KCC SPRINGFIELD LIBRARY SITE, SANDLING ROAD, MAIDSTONE - FORMER KCC SPRINGFIELD LIBRARY HQ, SANDLING ROAD, MAIDSTONE, KENT

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Mr Nellis addressed the meeting on behalf of the applicant.

**RESOLVED:** That consideration of this application be deferred to enable:

- The viability information to be published on the Council's website; and
- The Officers to provide details of the S106 funding currently available for community facilities in the area.

Voting:        7 – For        6 – Against        0 – Abstentions

80. 19/503119/FULL - CONVERSION OF REDUNDANT GARAGE TO ASSISTED LIVING ANNEX TO PROVIDE ANCILLARY RESIDENTIAL ACCOMMODATION - GREAT FOWLE HALL FARMHOUSE, DARMAN LANE, PADDOCK WOOD, TONBRIDGE, KENT

Councillor Brice stated that she had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Councillor Brown of Yalding Parish Council and Councillor McLoughlin (Visiting Member) addressed the meeting.

**RESOLVED:**

1. That permission be granted subject to the conditions and informative set out in the report with additional conditions requiring (a) the incorporation of integrated niches for wildlife in the structure of the annex and (b) the annex to be equipped with a system to receive Environment Agency flood alerts.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional conditions and to amend any other conditions as a consequence.

Voting:        13 – For        0 – Against        0 – Abstentions

81. 19/500456/FULL - DEMOLITION OF EXISTING SINGLE STOREY EXTENSION AND ERECTION OF A PART TWO STOREY AND PART SINGLE STOREY REAR EXTENSION, SINGLE STOREY SIDE EXTENSION AND WOODEN STRUCTURE FRAMEWORK TO THE FRONT AS A FEATURE (RE-

SUBMISSION TO 18/502887/FULL) - CORYLUS COTTAGE, 165 HEATH ROAD, COXHEATH, MAIDSTONE, KENT

All Members except Councillors Brice, Cox, Perry and Vizzard stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Mrs Spalding, an objector, and Councillor Webb (Visiting Member) addressed the meeting.

**RESOLVED:**

1. That permission be granted subject to the conditions and informative set out in the report with an additional condition requiring the incorporation of integral niches for wildlife (bird and bat boxes etc. and bee bricks for solitary bees).
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional condition and to amend any other conditions as a consequence.

Voting:        9 – For        1 – Against        3 – Abstentions

82. 19/500469/FULL - ERECTION OF 2 NO. DETACHED FOUR BEDROOM DWELLINGS WITH ASSOCIATED GARAGING, PARKING AND TURNING. NEW SHARED ACCESS ON TO DEAN STREET WITH THE REMOVAL OF FRONTAGE FENCE AND HEDGE PLANTING - LAND ADJACENT TO HAZELDENE, DEAN STREET, EAST FARLEIGH, KENT

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Councillor Hussain of East Farleigh Parish Council, for objectors, Councillor O'Callaghan of East Farleigh Parish Council, Ms Harvey, for the applicant, and Councillor Webb (Visiting Member) addressed the meeting.

**RESOLVED:**

1. That permission be granted subject to the conditions and informatives set out in the report with:
  - (a) The amendment of condition 4 (Landscaping) to require a high quality, comprehensive, native species landscaping scheme which encloses the entire site with hedgerow boundaries and includes hedgerow trees interspersed in the hedgerow on the site frontage;
  - (b) The amendment of condition 13 (Biodiversity Enhancements) to require the incorporation of bee bricks for solitary bees; and

- (c) An additional condition requiring the incorporation of renewable energy measures such as solar PV panels to provide at least 10% of the development's energy needs from on-site renewable energy sources.
- 2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended and additional conditions and to amend any other conditions as a consequence.
- 3. That the details to be submitted pursuant to condition 4 (Landscaping) and the condition relating to renewable energy generation are to be reported back to the Committee for approval.

Voting:        7 – For        1 – Against        5 – Abstentions

83. 19/500705/FULL - VARIATION OF CONDITION 20 OF 14/502010/OUT TO ALLOW SATURDAY WORKING HOURS START TIME TO BE CHANGED FROM 9:00 A.M. TO 8:00 A.M. (TOTAL WORKING HOURS 8:00 A.M. TO 13:00 P.M.) - HEN AND DUCKHURST FARM, MARDEN ROAD, STAPLEHURST, KENT

The Chairman and Councillors Bartlett, Perry and Round stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

During the presentation on the application, the Major Projects Manager advised the Committee that the Chairman had requested and been provided with a note setting out the procedures that exist in relation to construction noise complaints. The note also suggested to the Chairman that clarity should be provided via the Council's website (and any other literature that may be produced to guide residents) as to what the procedures are so that residents are aware of the process. In addition, the published Environmental Code of Development Practice, which offers guidance on what are considered to be acceptable working practices, should also be readily accessible to the public and developers via the website.

Mr Bowden, an objector, and Councillor Buller of Staplehurst Parish Council addressed the meeting.

Due to the close proximity of her property to the site, Councillor Brice made representations in her capacity as Ward Member and then left the room when the application was discussed.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed that permission be refused and that condition 20 attached to the outline planning consent be retained in an un-amended form. In making this decision, Members felt that the condition restricting working hours of construction was intended to preserve the amenities of the occupiers of surrounding properties. This

did not just relate to noise nuisance, it related to wider amenity considerations.

The Committee's objection to the amendment or removal of condition 20 was on the grounds that sole reliance on the Environmental Protection regime would be ineffective other than in the case of excessive site noise which may equally occur during and outside the currently permitted hours of work. The site has already been the source of breaches and nuisance relating to noise and disturbance. Retention of the condition would provide certainty to local residents as to when their amenity would be protected. Excessive noise and other disturbances both during and outside of these hours could still be dealt with under, for example, the Environmental Protection Act 1990.

**RESOLVED:** That permission be refused and condition 20 attached to the outline planning consent reference 14/502010/OUT be retained for the following reason:

The extended hours of working above those already permitted would result in a loss of amenity to neighbouring residents due to extended activity and disturbance, contrary to Policy DM1 of the Maidstone Borough Local Plan 2017.

Voting:        12 – For        0 – Against        0 – Abstentions

Arising from consideration of this application, and in line with the note provided for the Chairman, it was

**FURTHER RESOLVED:**

1. That clarity be provided for residents who may be affected by noise at construction sites that the following process exists:

As a general point, developers are encouraged to openly engage with the local community in relation to the neighbourly operation of construction sites including early engagement, preferably in advance of works commencing.

Neighbours are encouraged to raise concerns with developers first in the hope that mutual resolution can be achieved. Where this is not possible or is ineffective, residents should contact the Council and the following process will be followed:

- Complaints relating to noise at construction sites should be made to the Council's Community Protection Team (CPT) (not the Planning Department);
- Residents are asked to complete a diary in order that the CPT can assess whether there is a need for further investigation;
- Relevant facts that should be recorded on the diary include the source and type of noise, its frequency and duration;

- Where necessary Officers of the CPT may attend the site unannounced to witness any breaches;
  - If there is judged to be a noise nuisance the CPT will advise the developer of the need to follow the British Standard 5228 "Noise and Vibration Control on Construction and Open Sites";
  - If, despite warnings, the nuisance persists, the Council will consider whether more formal action should be taken. Legal options include the Anti-Social Behaviour Crime and Policing Act 2014, Environmental Protection Act 1990 S79/80, and Control of Pollution Act 1974 S60; and
  - The CPT currently uses measures available through the Environmental Protection Act and Community Protection Notices. The Act allows for 'abatement notices' to be served which can require, for example, the abatement of the nuisance, or prohibiting or restricting its occurrence or recurrence, or requiring the works causing the nuisance to stop. The notice would also specify the time or times within which the requirements of the notice are to be complied with.
2. That the Council's website and/or other information sources should be updated to ensure that this information is easily accessible to the public.
  3. That the published 'Environmental Code of Development Practice', which offers guidance on what are considered to be acceptable working practices, should also be readily accessible to the public (and developers) via the website.
  4. That the Head of Planning and Development be requested to assess whether it would be appropriate to add informatives to relevant planning decisions advising developers of the 'Environmental Code of Development Practice'.

Voting:        12 – For        0 – Against        0 – Abstentions

84. 19/502796/FULL - CREATION OF FIRST FLOOR FRONT EXTENSION, ALTERATIONS TO REAR WINDOWS AND DOORS, INSERTION OF 2 NO. WINDOWS TO SIDE AT FIRST FLOOR AND INTERNAL ALTERATIONS - 55 BOXLEY CLOSE, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:** That permission be granted subject to the conditions set out in the report.

Voting:        13 – For        0 – Against        0 – Abstentions

85. 19/500305/FULL - CHANGE OF USE OF LAND FOR THE ERECTION OF 6 NO. ONE-BEDROOM TOURIST LODGES - RIVER WOOD, CHEGWORTH LANE, HARRIETSHAM, KENT

See Minute 70 above

86. APPEAL DECISIONS

The Committee considered the reports of the Head of Planning and Development setting out details of appeal decisions received recently. The Major Projects Manager advised the Committee that having reviewed the decisions, it was clear that Inspectors during the period had given support to the Local Plan policies and they had upheld the Council's view in all cases where the Council had expressed concern about the impact of the development on for example character and appearance. To summarise, it was a very positive set of appeal decisions.

**RESOLVED:** That the reports be noted.

Note: Councillor Bartlett left the meeting during consideration of the appeal decisions.

87. DURATION OF MEETING

6.00 p.m. to 9.45 p.m.

# Agenda Item 12

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**26 SEPTEMBER 2019**

#### **REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT**

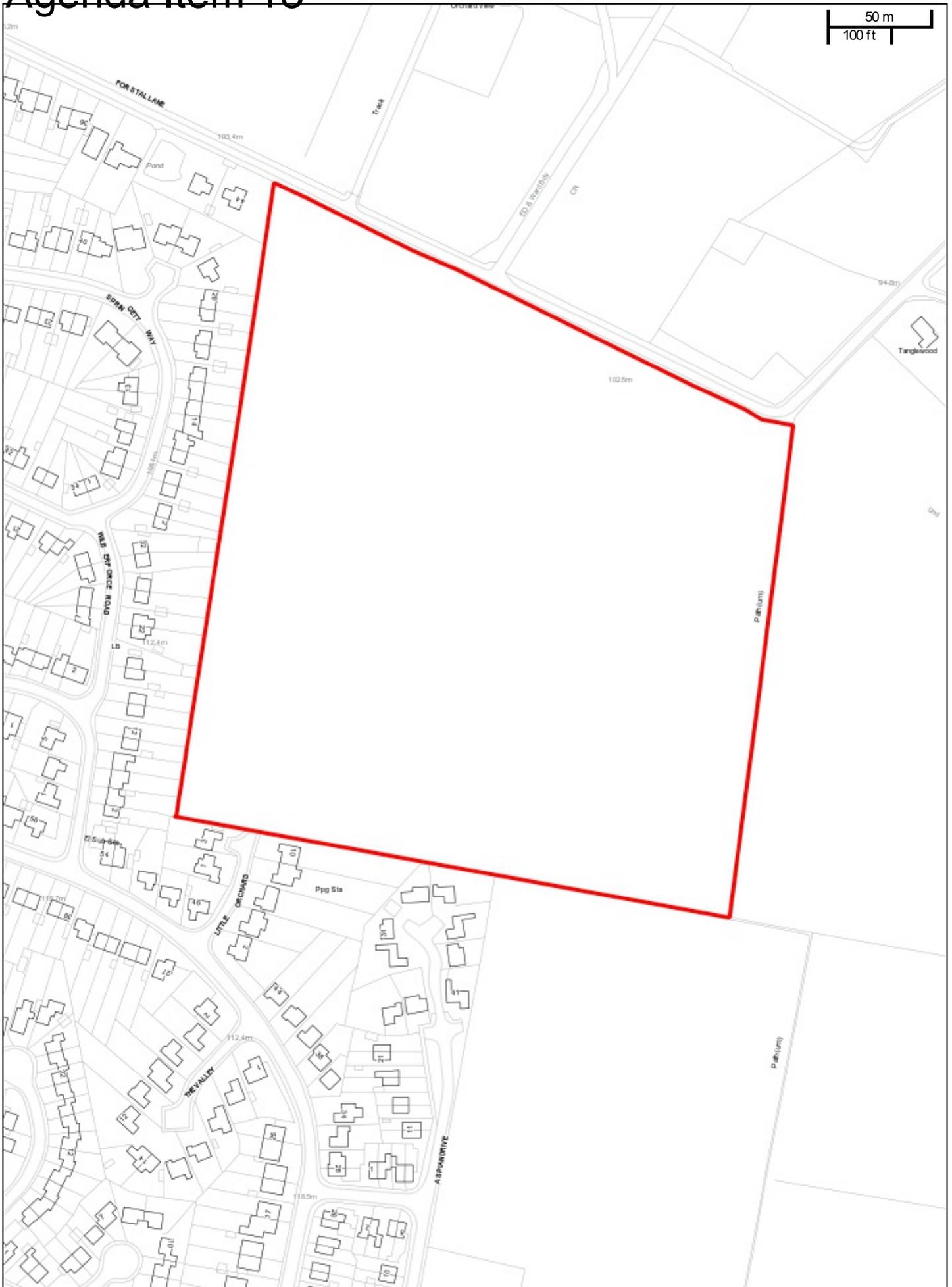
##### **DEFERRED ITEMS**

The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

<b>APPLICATION</b>	<b>DATE DEFERRED</b>
<p><u>19/500271/FULL - CHANGE OF USE OF LAND FOR THE STATIONING OF 20 HOLIDAY CARAVANS WITH ASSOCIATED WORKS INCLUDING LAYING OF HARDSTANDING AND BIN STORE - OAKHURST, STILEBRIDGE LANE, MARDEN, TONBRIDGE, KENT</u></p> <p>Deferred to:</p> <p>Seek further information to assess the visual impact, the potential level of harm, the details of the mitigation and the benefits arising, this to include:</p> <ul style="list-style-type: none"><li>• Details of the actual layout of the site including hard and soft landscaping and any associated facilities and lighting;</li><li>• Details of the scale and design parameters;</li><li>• Further detail in terms of demonstrating both local and longer distance views and how these can be mitigated;</li><li>• More details in terms of landscaping, including a net gain for biodiversity with the incorporation of hedgerow trees reflecting the Council's Landscape Character Assessment Guidance in the proposed mixed native hedgerow along the northern boundary of the site, extension of the Ancient Woodland buffer westward to provide a habitat link to the pond and ditch network on the Stilebridge Lane frontage and fencing along the Ancient Woodland buffer (Chestnut spile);</li><li>• Details of the lighting strategy; and</li><li>• Clarification in terms of sustainability (role of rural tourism), the economic benefits and the business model, including identification of the need for this type of use, the model for occupation (for example, whether these would be short-let units</li></ul>	30 May 2019

<p>managed by the site owners) and information about how the site and the landscape and ecology elements would be managed.</p>	
<p><u>19/500200/FULL - RETROSPECTIVE APPLICATION FOR A CHANGE OF USE OF LAND TO BE USED AS A GYPSY/TRAVELLER CARAVAN SITE CONSISTING OF ONE PITCH - LITTLE PADDOCKS, STILEBRIDGE LANE, LINTON, KENT</u></p> <p>Deferred for further negotiations with the applicant to secure a revised site layout/landscaping plan showing parking/hardcore to the entrance of the site and extending inwards with an amenity area towards the rear part of the site which would be suitable for the needs of existing/future occupants.</p>	<p>25 July 2019</p>
<p><u>17/504568/FULL - DEMOLITION OF THE REMAINING FORMER LIBRARY BUILDING, ERECTION OF A SIX-TO-SIXTEEN STOREY RESIDENTIAL DEVELOPMENT OF 170 NO. APARTMENTS AND 85 NO. CAR PARKING SPACES AT THE FORMER KCC SPRINGFIELD LIBRARY SITE, SANDLING ROAD, MAIDSTONE - FORMER KCC SPRINGFIELD LIBRARY HQ, SANDLING ROAD, MAIDSTONE, KENT</u></p> <p>Deferred to enable:</p> <ul style="list-style-type: none"> <li>• The viability information to be published on the Council's website; and</li> <li>• The Officers to provide details of the S106 funding currently available for community facilities in the area.</li> </ul>	<p>22 August 2019</p>

# Agenda Item 13



**Site H1 Forstal Lane**  
Scale: 1:2500

<b>REFERENCE NO -</b>		
(A) 19/500667/SUB		
(B) 19/502295/SUB		
(C) 19/504223/SUB		
<b>APPLICATION PROPOSAL</b>		
(A) Submission of details pursuant to condition 8 (Surface Water Drainage details), Condition 9 (Implementation of Sustainable Drainage), Condition 12 (Lighting scheme) and Condition 22(Footpath and PROW) for planning permission 17/502072/OUT (for 210 dwellings)		
(B) Submission of details pursuant to Condition 3: Joinery details (original application ref: 18/505417/REM- Reserved Matters for 210 dwellings)		
(C) Submission of Details to Discharge Condition 6 (Lighting) (original application ref: 18/505417/REM- Reserved Matters for 210 dwellings)		
<b>ADDRESS</b> Land South Of Forstal Lane Coxheath Kent		
<b>RECOMMENDATION</b> Applications Permitted		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed details are all adequately acceptable and accord with the reasons for imposing the conditions.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
The Planning Committee of 31 January 2019 resolved that all details pursuant to the planning permission on this site must be reported to Planning Committee.		
<b>WARD</b> Coxheath And Hunton	<b>PARISH/TOWN</b> <b>COUNCIL</b> Coxheath	<b>APPLICANT</b> Chartway Group Ltd
<b>TARGET DECISION DATE</b> 11/10/19		<b>PUBLICITY EXPIRY DATE</b> 11/09/19

### **Relevant Planning History**

17/502072/OUT - Outline Application for residential development for up to 210 dwellings together with access off Forstal Lane, 1.85 hectares of open space and associated infrastructure (Access being sought). Approved 27.02.2018.

Pursuant to the outline permission a number of details have already been approved, principally:

Condition 4(i): Archaeological field evaluation works. Approved 25.07.2018  
Variation to Condition 5: All Existing Hedgerow To Be Retained to allow a temporary construction access. Approved 09.10.2018

Variation to Condition 18: Badger Mitigation Strategy. Approved 08.11.2018

Condition 13 - Ecological Design Strategy. Approved 24.10.2018

Condition 4(ii) - Further archaeological investigation to amend the Badger Mitigation Approach. Approved 12.11.2018

Condition 3 (Construction Method Statement) Condition 16 (Contamination) and Condition 23 (Foul Water and Surface Water Drainage Strategy) Approved 20.03.2019

Condition 17 (Energy) Subject to 17/502072/OUT (210 dwellings)  
Approved 23.08.2019

18/505417/REM; Approval of Reserved Matters for Appearance, Layout, Scale and Landscaping and details pursuant to conditions 6 (Arboricultural Method Statement); 7 (Tree Protection) and 24 (Minimise Risk of Crime). Approved 18.02.2019

Pursuant to the Reserved Matters consent, details have already been approved as follows:

Condition 2 (materials), condition 4 (ragstone) Approved 23.08.2019

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The site is now under construction. It has an area of 7.79ha and lies to the south of Forstal Lane, adjoining the existing estate of Park Way and Mill Road to the west and north of the recently constructed housing development of Willow Grange.
- 1.02 The site is generally enclosed by hedgerows to its boundaries. The site has an access onto Forstal Lane to the northern boundary and a public footpath, KM67 runs north to south along the eastern boundary, into the Willow Grange development and then to Heath Road. To the North East of the site, Forstal Lane becomes Well Street, a narrow lane which leads to Loose.

### **2. PROPOSAL**

- 2.01 This report deals with 3 applications that seek to discharge details required by 4 conditions attached to the outline planning permission and 2 conditions attached to the reserved matters consent.
- 2.02 The submitted details for Surface Water Drainage are for a piped network which will remove surface water from the roof areas and roads and allow infiltration to ground within the site. SuDS features to the west of the site (an infiltration swale and 2 infiltration basins) are downstream of 3 separate surface water drainage networks.
- 2.03 An overland flow currently runs through the site from south to north and this is to be maintained with flows being diverted around the basins via linking shallow swales. The submitted report states it is demonstrated that the surface water can be disposed of without increased risk of flooding and moreover that the 1 in 30 year storm event will be held fully within the pipework without flooding.
- 2.04 The piped drainage network will be installed as the development progresses and the swale and infiltration basins will be in place prior to first occupation. Maintaining of the drainage system and SuDS features will be by an Estate Management Company (to be funded by service charges). A separate fund will provide for the anticipated replacement cost of the major components. The main surface water drains in the road, all manholes, pipework and the pumping station will be adopted under a Section 104 agreement with ICOSA (this is an Ofwat regulated water company, licenced to operate public water and wastewater networks as appointed statutory undertakers instead of SWS).
- 2.05 The submitted ground investigation report states that there will be no risk to controlled waters from surface water discharge from the site, nor any ground stability issues resulting.
- 2.06 The lighting details for condition 12 of the outline planning permission and condition 6 of the Reserved Matters application comprises a total of 20 black columns (5m high) plus 41 black bollard lights. All have LED lights in the "yellow" coloured range rather than the conventional "blue" and so are more appropriate for ecological interests. The columns are generally at the main entrance and on the main spine

road and the bollard lights are at the peripheries of the development including along Forstal Lane and facing the Open Spaces north and east of the development.

- 2.07 In addition, each dwelling is to have PIR LED lighting units affixed near the front and rear doors.
- 2.08 The details of the footpath and PROW on the eastern side of the Open Space will adhere to the designated alignment and will comprise a 2.5m wide (albeit tapering to 1m wide at the 2 boundaries of Willow Grange and Well Street) of limestone gravel on a type 1 granular base over a geotextile membrane. The path will be edged by treated timber edging regularly staked into the ground. The will be a network of surfaced and mown paths connecting to the PROW.
- 2.09 The joinery details are UPVC double glazed units. Soffits and bargeboards to be timber.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough Local Plan 2017 H1 (58); DM1

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

- 4.01 n/a

### **5. CONSULTATIONS**

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

#### Loose PC:

- 5.01 No Comments

#### KCC (Flood and Water Management)

- 5.02 11 April 2019: More infiltration testing needed, in full accordance with the BRE365:2016 test procedure.
- 5.03 4 July 2019: Revised calculations demonstrate that the drainage system appears to operate satisfactorily. We are therefore able to recommend condition 8 be discharged. The Drainage Maintenance & Management Manual requires updating to include a timetable for implementation, the latest drainage layouts, drainage features and proposals to offer sewers for adoption by Icosa water.
- 5.04 23 July 2019: No objection to the discharge of condition 9 based upon the revised Drainage Maintenance & Management Manual. Although we previously recommended discharge of condition 8, the drainage plans have been modified since.
- 5.05 29 August 2019: The applicant has resubmitted the calculations for the design and has demonstrated appropriate operation of the drainage system. We recommend discharge of condition 8.

#### SWS

- 5.06 Under current legislation and guidance Sustainable Urban Drainage Systems (SUDS) rely upon facilities which Southern Water currently does not adopt. No

soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a pumping station

## **6. APPRAISAL**

### **Main Issues**

6.01 The key issues for consideration relate to:

- Adequacy of the proposed surface water drainage system and future maintenance
- Lighting
- Footpaths to PROW and upgrade of PROW

### **Surface Water Drainage**

6.02 The system needs to accommodate all water from roofs and hard surfaces on site before being discharged at an agreed rate to the receiving watercourse, it needs to prevent silt, mud and other pollutants from entering the downstream watercourses and appropriate allowances for climate change must be incorporated. There must be no resultant unacceptable risk to controlled waters and/or ground stability.

6.03 The developer has now provided clear information as to responsibilities and details of future maintenance regimes to arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

6.04 KCC as Lead Local Flood Authority is now satisfied that the scheme as amended is acceptable in regard of both conditions 8 and 9.

6.05 The ponds will have shallow side slopes for a naturalistic appearance within the Open Space. Fencing in the interests of safety will only be in the vicinity and immediately near to the head walls leading into the ponds.

### **Lighting**

6.06 The lighting proposed is an acceptable compromise between safety needed by adequate and even lux levels and rural visual amenity/avoidance of light pollution. The scheme uses low bollards on the sensitive site peripheries, where they are spaced with approx. 20m gaps.

6.07 All of the columns and bollards units have a 3000k colour temperature (ie towards the yellow end of the spectrum) which is sensitive to both vernacular and biodiversity and are designed to minimise upward light spillage.

6.08 The inclusion of a consistent scheme of PIR domestic lights to the dwellings' external doors assists in ensuring that sensitive units are installed rather than letting future occupiers install their own, thus minimising long term impact of external lighting at the site. One of the models comes in a soft yellow light tone which is appropriate in this rural locality.

6.09 The objective of the condition was to minimise disturbance to wildlife and reduce light pollution and spillage. I am satisfied that the lighting numbers and types strikes a satisfactory compromise between those objectives and safety for residents. Peripheral lighting to the site, close to where there may be habitat suitable for bats is negligible. The tone of the LEDs in the streetlights and bollards is the most sensitive from a biodiversity point of view.

### **Footpath and PROW**

- 6.10 The objective of this condition was to secure an upgrade of KM67 and show pedestrian links to it from the housing area which in this case means crossing the Public Open Space. This matter was in fact considered in some detail at the RM stage and the details submitted reflect the approval which was a compromise between anticipating likely pedestrian desire lines and not over-urbanising the Open Space (being 3 formal paths and 2 mown ones). The upgrade details of KM67 have been designed in liaison with the PROW officers at KCC.

### **Other Matters**

- 6.11 Design of the joinery features are considered to be acceptable in the context of the development

## **7. CONCLUSION**

- 7.01 The proposed details are all adequately acceptable and accord with the reasons for imposing the conditions.

## **8. RECOMMENDATION**

### **(A) 19/500667/SUB**

Approve the submitted details.

#### **Informative**

- 1) This decision is based on the following documents/drawings: 7054/1065 C3 Pond Sections; Site Drainage 7054/1061 C9; Site Drainage 7054/1062 C11; Site Drainage 7054/1063 C11; Ph 3 Site Investigation Report; Drainage Statement; Drainage Report; Drainage Maintenance and Management Manual; Landscape Design Statement; 4755-LLB-XX-XX-DR-L-0003 Rev P07 Indicative Landscape Masterplan; PROW Specification; External Lighting Specification; 14167-1-G Lighting Layout Plan.
- 2) You are reminded that under condition 6 of 18/505417/REM, any changes to external lighting to dwellings, roads and paths will need to be approved by the Local Planning Authority.

### **(B) 19/502295/SUB**

Approve the submitted details.

#### **Informative**

- 1) This decision is based on the following documents/drawings:  
HD-0306/Rev.C2 (weatherboard); HD-0311/RevC2 (tile hung); 0302/Rev.C2; 0307/Rev.C2;  
HD-0308/Rev.C2; HD-0303/Rev.C2; HD-0312/Rev.C2; HD-0324/Rev.C2; HD-0223 rev C2

### **(C) 19/504223/SUB**

Approve the submitted details.

#### **Informatives**

- 1) This decision is based on the following documents/drawings: 14167-1-G Lighting Layout; External Lighting Specification Rev B
- 2) You are reminded that under condition 6 of 18/505417/REM, any changes to external lighting to dwellings, roads and paths will need to be approved by the Local Planning Authority.

Case Officer: Marion Geary



19/501105 - Whiteacres

Scale: 1:1250

Printed on: 18/9/2019 at 11:36 AM by EllyH

<b>REFERENCE NO - 19/501105/FULL</b>		
<b>APPLICATION PROPOSAL</b> Siting of two additional mobile units, with associated access and landscaping works.		
<b>ADDRESS</b> Whiteacres, Marden Road, Staplehurst, Tonbridge, Kent, TN12 0JG		
<b>RECOMMENDATION</b> – GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The visual impact from the proposal will be reduced to an acceptable level and public views of the proposed caravans minimised by the screening provided by the existing boundary screening and proposed strengthening of this landscaping. There would be no significant harm to the landscape and rural area.  The application proposal, when combined with other gypsy sites in the immediate vicinity, and in relation to existing authorised developments, will not dominate the settled community. In the context of gypsy and traveller accommodation, the application site is in a relatively sustainable location that is not so remote from services and facilities to justify a refusal. The application development does not have any adverse impact on residential amenity. The proposal would not lead to any increased risk to highway safety or ecological impact.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Staplehurst Parish Council require the application to be referred to MBC Planning Committee if Officers are minded to approve the application for the reasons set out in the consultation response.		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Mr. & Mrs. Warren <b>AGENT</b> DHA Planning
<b>TARGET DECISION DATE</b> 04/10/19 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 21/08/19

**Relevant Planning History (most recent first)**

Application site

- 18/501811/FULL Application for the confirmation of the location of four static mobile homes and touring caravans on a pitch for a gypsy family alongside associated parking (Resubmission of 17/502732/FULL) Approved Decision Date: 09.08.2018
- 18/500582/SUB Submission of details pursuant to Condition 6 (Landscaping) for planning permission 17/502732/FULL. Approved Decision Date: 12.04.2018
- 17/502732/FULL The placement of one additional static mobile home and touring pitch alongside associated parking. Approved Decision Date: 18.08.2017
- 13/0866 Retrospective application for new access, driveway and gates. Approved Decision Date: 05.09.2013

- 11/1118 Change of use of land for the stationing of an additional 4 mobile homes for a gypsy family. Approved Decision Date: 21.09.2011
- 10/0226 Change of use of land to allow the relocation of one existing mobile home for residential use with associated works including hardstanding and fencing. Approved Decision Date: 29.06.2010
- 88/0799 Siting of one residential caravan. Approved Decision Date: 21.12.1988

Neighbouring site: Meadow View, Marden Road, Staplehurst TN12 0JG

- 19/500399/FULL Proposed stationing of 4no. additional mobile homes for extended Gypsy & Traveller family. (Committee 25.04.2019) Approved Decision Date: 30.04.2019

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The application site is located in the countryside on the north east side of Marden Road. The site frontage has a width of approximately 65 metres and extends back from the Marden Road to a depth of between 54 and 74 metres.
- 1.02 The site currently comprises an open field to the front of the existing Gypsy and Traveller site known as White Acres. White Acres is bordered by other Gypsy and Traveller accommodation to the north west (Stable Paddock) and to the south east (Meadow View).
- 1.03 A private road currently providing access to five existing caravans at White Acres, borders the application site to the south east with a post and rail timber fence along the road edge. To the north west of the site is the private access road to Stable Paddock. The site is 0.5 miles from the Staplehurst settlement boundary and 0.9 miles from Station Road in the centre of Staplehurst.

### **2. PROPOSAL**

- 2.01 The current proposal is for the siting of two additional mobile units, with associated access and landscaping works. This application is submitted to ensure that there is one planning application and permission that covers both the existing mobile home that has been previously granted on the site as well as the two new proposed units. The proposal would result in three statics and three tourers at the site.
- 2.02 The original application was revised with the new site entrance and internal road removed from the proposal, with access now provided using the existing entrance and internal road.
- 2.03 The submitted plans show the new southern caravan at a right angle to the front boundary and set back by 19 metres from the front site boundary. The northern caravan is parallel to the front boundary and set back into the site by between 17 and 20 metres. The existing site has trees and hedging along the front boundary and the submitted plans show an extended landscape buffer of approximately 5 metres in depth, with further tree planting behind. The tree planting is shown as extending along the internal access road that will provide screening of the proposed caravans.

### **3. POLICY AND OTHER CONSIDERATIONS**

- National Planning Policy Framework (NPPF);
- National Planning Practice Guidance (NPPG);

- Maidstone Borough Local Plan 2017 SS1, SP17, DM1, DM15, DM30;
- Staplehurst Neighbourhood Plan;
- Planning Policy for Traveller Sites (PPTS).

#### 4. LOCAL REPRESENTATIONS

##### Local Residents:

- 4.01 Three representations received from local residents raising the following (summarised) issues.
- The existing Whiteacres site and two other adjacent Gypsy and Traveller sites dominate the other small residential communities that are within a 500m radius.
  - The current application will result in the site not being well kept and will impact on the rural setting;
  - Current application needs to be considered with the application at Meadow View (19/500399/Full) Staplehurst PC objected to this separate application as contrary to DM15, in an unsustainable location, not an allocated site, inadequate screening from neighbour and Marden Road issues with waste water drainage (officer comment: MBC planning committee approved this separate application at the meeting on the 25.04.2019).
  - The submitted site location plan is incorrect as the footprint shown of the nearby property called Clara is too small.
  - It is disturbing that Section 13 on the Proposal to Maidstone Borough Council states disposal of Foul Sewage as "unknown".
  - I strongly oppose any more breaks in the hedge line for environmental reasons and also because it opens the site up to a much wider vision from the road. (*Officer comment: the revised proposal no longer includes further gaps in the hedge line*)
  - The proposal will impact heavily on this supposedly rural community most obviously its infrastructure and services which are below adequate;
  - A precedent needs to be set that protects and maintains the rural belt otherwise this will open the door for further developments,
  - The Gypsy and Traveller accommodation locally has reached saturation point
  - The current proposal will, give the site an urban appearance
  - The proposal will feel cumulatively overbearing, out of scale and character
  - The provision of additional screening is acknowledgment from the applicant that there will be visual harm;
  - The existing site causes amenity issues from motorbikes, dogs barking and security lighting and this will increase as a result of the proposal.
  - A wider study is required to identify suitable land for gypsy and traveller accommodation that will ensure "...an even spread without density or concentration".
  - Public consultation was inadequate as an adjoining landowner only found out about the proposal from the Parish Council and was not sent a letter.
  - The require further encroachment into the 'front grass buffer zone' and 'punch another road access through the hedge (*Officer comment: the revised proposal no longer includes a new gap in the hedge line, with a 5 metre deep landscape buffer across the front of the site*) in case it is sold to another family..." would be contrary to the familial condition attached to 11/1118.
  - The occupation of the site by Mrs Warren and her descendants is supported but any occupation outside this group is strenuously opposed.
- 4.02 Additional consultation was carried out on the revised plans with all the original neighbours who had been sent letters and the occupiers who sent the original unsolicited response. No additional responses or comments were received.
- 4.03 The matters raised by neighbours and other objectors are discussed in the detailed assessment below.

#### 5. CONSULTATIONS

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

### **Staplehurst Parish Council**

- 5.01 Original consultation response  
Recommend that the application be refused for the following reasons:
- The proposal would over-develop the site and increase light pollution in the area;
  - The proposed location of units nearer to the road would be detrimental to the local setting;
  - The new access would be an additional hazard *Officer comment: the revised proposal no longer includes a new access*; given the known foul water issues on Marden Road, the applications unknown response to the question of sewage disposal was not acceptable;
  - There was no need for additional pitches to meet MBCs requirement;
  - It was concerning to learn that at least one neighbouring landowner had not been notified about the application by MBC.
- 5.02 Additional consultation on amended plans (7 August 2019)- Whilst Councillors noted the revised access proposal, they reiterated their initial concerns expressed in their previous recommendation and wished to confirm their recommendation that permission is refused and referral to MBC Planning Committee if the Planning Officer is minded to approve the application.

### **Kent Highways**

- 5.03 No objection subject to conditions and informatives (Revised plans have resolved original objection).

### **MBC Environmental Health**

- 5.04 No objection. Recommend informative relating to the Mid Kent Environmental Code of Development Practice.

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The main issues for consideration relate to:
- Need for Gypsy Sites;
  - Supply of Gypsy sites;
  - Gypsy Status;
  - Personal circumstances;
  - Siting sustainability
  - Impact on the character and setting of the countryside;
  - Cumulative impacts;
  - Residential amenity:
  - Parking and highway safety
  - Ecology, biodiversity and Wildlife considerations:
  - Human Rights and Equality

### **Need for Gypsy Sites**

- 6.02 Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012.
- 6.03 The GTAA concluded the following need for pitches over the remaining Local Plan period:
- |          |              |               |
|----------|--------------|---------------|
| Oct 2011 | – March 2016 | - 105 pitches |
| Apr 2016 | – March 2021 | - 25 pitches  |

	Apr 2021	- March 2026	- 27 pitches
	Apr 2026	- March 2031	- 30 pitches
Total:	Oct 2011 -	- March 2031	= 187 pitches

6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised Planning Policy for Traveller Sites document (PPTS) published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

6.05 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan.

#### **Supply of gypsy sites**

6.06 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Local Plan Policy DM15 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside.

6.07 Since 1 October 2011, the base date of the GTAA, and up to 31 July 2019, the following permissions for pitches have been granted (net):

- Permanent/non-personal – 170
- Permanent/personal – 28
- Temporary/non-personal – 4
- Temporary/personal – 39

6.08 A net total of 198 'permanent pitches' have been granted since 1 October 2011 and this exceeds the number of permanent pitches identified as being required by 2031 in the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA). The Council's current position is that it can demonstrate in excess of 7.7 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2018.

6.09 The Planning Policy for Traveller Sites (PPTS) at paragraph 11 states "*...Where there is no identified need, criteria-based policies should be included (in the Local Plan) to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community*". In this context, the submitted application has to be considered against the other policies in the adopted Local Plan, including policy DM15 Gypsy, Traveller and Travelling Showpeople accommodation.

#### **Gypsy Status**

6.10 The planning definition of 'Gypsies and Travellers' as set out in the Planning Policy for Traveller Sites document (PPTS) has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such*".

6.11 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health

or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

- 6.12 The applicant has supplied the following response to the questions in the PPTS:
- (a) Whether they had previously led a nomadic habit of life;  
*"The extended family have travelled extensively for many years for work and regularly to horse fairs in places such as Appleby and Stow. The family needed to travel for at least 16-20 weeks of the year for work and to horse fairs which was often extended"*
- b) the reasons for ceasing their nomadic habit of life;  
*"The extended family have settled on this site due to the deteriorating health of elder members of the family. Whilst the family intend to continue travelling to fairs and for work".*
- c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances  
*"The family continue to travel, notwithstanding other family commitments".*
- 6.13 The applicant's family are a well-known local gypsy family with the extended family living on adjacent land for some 30 years. The two new static caravans are intended for the son and daughter of the applicant.
- 6.14 The son has two jobs, commercial cleaning and assisting his father with his business Staplehurst Driveways, the nature of the work with his father requires travelling to source work. The son also travels with his father to Gypsy fairs such as Stow And Appleby. Horse and donkey related work has been the basis of the family's travelling for many years with the family travelling to sales locations as well as horse and trotting fairs over the years. The applicant's son intends to continue with his travelling lifestyle. The son's wife was due to give birth to a baby in June 2019.
- 6.15 The second static mobile home is intended for the applicant's daughter. The applicant's daughter has a number of medical conditions. Her father wishes her to have as normal an adult life as possible and along with the extended family intends providing the ongoing care that is needed and assistance to his daughter. The applicant's daughter is not able to take part in a travelling lifestyle for work but does wish to be able to travel with her father as much as possible.
- 6.16 Given the above it is considered that the applicant and the intended occupants of the proposed caravans would fall within the current definition of Gypsy and Travellers. A condition is recommended (condition 3) on any grant of planning permission to ensure that the additional mobile homes are not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document). If members consider it necessary a condition can also require that occupants of the two new static homes to be the immediate family of the applicant.

#### **Sustainability of location**

- 6.17 Policy SS1 describes the most sustainable locations in the borough for the provision of new development in a sustainability hierarchy. The urban area of Maidstone is at the top of this hierarchy followed by the Rural Service Centres (including Staplehurst) as the secondary focus for development.
- 6.18 Whilst the current proposal site (located 0.5 miles from the Staplehurst settlement boundary and 0.9 miles from Station Road in the centre of Staplehurst) is more

sustainable than many Gypsy and Traveller sites, there are no bus stops in the vicinity and no pedestrian pavements for the 22 minute walk ([travelinesoutheast.org.uk](http://travelinesoutheast.org.uk)) into Staplehurst where there is a good range of services and facilities.

- 6.19 Gypsy and Traveller sites are almost inevitably located in countryside locations and the site is not so far removed from basic services and public transport to justify grounds to refuse on sustainability grounds. The nature of the development, other development in the vicinity and Gypsy and Traveller accommodation granted in less sustainable locations elsewhere are also relevant considerations.

**Impact on the character and setting of the countryside**

- 6.20 Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated and that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.
- 6.21 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or hidden away in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.22 The site lies in the open countryside to the east of the Staplehurst village settlement. A distance of 30 metres separates the closest existing building on the site from the front boundary and the road with the intervening land a mown area of grass. The submitted plans show the proposed new southern caravan at a right angle to the front boundary and set back by 19 metres from the front site boundary. The northern caravan is broadly parallel to the front boundary and set back into the site by between 17 and 20 metres.
- 6.23 Meadow View borders the application site to the south east. Following a committee decision (25.04.2019), planning permission was approved on the 30 April 2019 for an additional 4 mobile homes at Meadow View. These mobile homes extended forward of existing homes on this Meadow View site and those currently existing on the adjoining application site.
- 6.24 The application site currently has a line of trees and hedging along the front boundary with the existing caravans are set back from the front boundary behind a mown grass field. Whilst the current application involves bringing caravans forward within the site and towards the road, a substantial set back from the site frontage of between 17 and 20 metres will be maintained. The application also involves strengthening the existing landscaping at the front of the site with a 5 metre deep landscape buffer along the front boundary and also new landscaping along the access road that will screen the new caravans in views from the site entrance. The amended proposal includes the use of the existing vehicle access without any loss of the existing boundary landscaping.
- 6.25 Whilst not part of the application site it is noted that there is a gap in roadside landscape screening at the bend in Marden Road to the north west of the application site. The submitted proposal also includes new landscape screening along the side (north west) boundary of the site that will screen the proposed caravans from this view point.

- 6.26 Policy PW2 of the Staplehurst Neighbourhood plan states that development in the countryside beyond the extended village envelope will be assessed in terms of the potential impact on the visual setting, landscape features of the site and the surroundings. The submitted proposal is in accordance with policy PW2 as the new caravans are set back from the front boundary of the site. The caravans will be located behind a landscape buffer that will be extended to also screen views from the existing site access.
- 6.27 Overall the proposal would be well screened from public views and would integrate with the established site and it is therefore considered acceptable in relation to maintaining and protecting the character and setting of the countryside.

**Cumulative impact**

- 6.28 The in the revised Planning Policy for Traveller Sites document (PPTS) published in August 2015 states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and/or place undue pressure on local infrastructure. Adopted Local Plan policy DM15 states, amongst other criteria to be met in, that permission will be granted if a Gypsy and Traveller development would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.29 A planning appeal inspector recently considered cumulative impact in relation to 8 Gypsy and Traveller pitches (4 existing and 4 proposed), in Love Lane Headcorn. One of these sites (Land Adjacent to The Potters 15/503944/FULL) is 0.9 miles to the east of the Headcorn settlement. Headcorn like Staplehurst is a designated Rural Service Centre in the Local Plan.
- 6.30 In relation to theses Love Lane appeals the inspector considered that *"...to allow the development of all the appeal sites would not have an effect greater than the sum of their individual effects on this area. This is due to the spread and separation of the sites and the existing level of screening from mature hedgerows and trees in the area"*. The planning inspector concluded that *"...the scale of this development in relation to the size of Headcorn, an identified rural service centre, would not dominate the settled community"*.
- 6.31 In comparing the inspector's conclusions to the current application, the current proposal involves two additional static caravans on this site that is closer to the settlement boundary (0.5 miles) of the rural service centre of Staplehurst. The current application involves caravans set back from the road behind existing trees and landscaping and a new 5 metre deep landscape buffer.
- 6.32 In the context of the existing authorised development, the set back from the road and the implementation of the landscaped buffer to be secured by planning condition, the combined cumulative effect in terms of impact on the countryside and landscape would not be so significant as to be in conflict with this aim of Local Plan policy DM15. The proposed development either on its own or cumulatively with adjacent development would not overwhelm the local community and local services.

**Residential amenity**

- 6.33 Policy DM1 of the Local Plan states that development should respect the amenities of occupiers of neighbouring properties by ensuring that development does not result in, or is exposed to, excessive noise, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties. Policy DM8 of the Local Plan considers the impact of external lighting.

- 6.34 The nearest house to the application site is Clara which is located 70 metres to the south east of the application site boundary and beyond adjacent Meadow View Gypsy and Traveller site. Lindridge Oast is located 175 metres to the north west of the site boundary and on the opposite side of Marden Road. With these separation distances the proposed additional two static caravans would be acceptable in relation to maintaining natural light, privacy, overlooking and general increases in activity.
- 6.35 Consultation responses refer to amenity issues relating to barking dogs, motorbike engines and external lighting associated with the current site. Whilst existing external lighting cannot be controlled through the current application, it is recommended that a condition be attached to a planning permission that requires details of any new external lighting to be submitted to and approved in writing by the local planning authority.
- 6.36 There is nothing to indicate that future occupants of the proposed two caravans (intended occupants have been outlined earlier in this report) would be the source of noise nuisance to nearby neighbours. In this context, noise issues relating to barking dogs and motorbike engines associated with the current accommodation would not be grounds to refuse planning permission for the current application.
- 6.37 The current noise issues would need to be investigated outside of the assessment of the current planning application. Details of how neighbours can report noise nuisance to the Council's Community Protection team are set out on the following link to the Council's website: <https://preview.tinyurl.com/y6zu39bo>.
- 6.38 The proposal would not result in any unacceptable loss of amenity in terms of loss of light, outlook, privacy or noise and disturbance due to the separation distances involved. The submitted proposal is considered acceptable in relation to the protection of neighbour amenity and in accordance with adopted local plan policies.

#### **Parking and highway safety**

- 6.39 Policy DM 30 of the local plan states that proposals which would not result in unacceptable traffic levels on nearby roads will be permitted. Policy DM15 states that planning permission for Gypsy and Traveller accommodation will be granted if the site can be safely accessed to and from the highway by all vehicles using the site on a regular basis.
- 6.40 The revised proposal does not include the formation of a new access but uses the existing vehicle access that has been in use for a number of years. No objections have been raised previously regarding highways safety in relation to the use of this access. The area of hardstanding around the mobile homes would provide sufficient on-site parking and turning areas such that there would be no adverse highways safety impact on the highway.
- 6.41 The permitted shared access is considered acceptable for the additional mobile home use in terms of highway safety. Adequate hardsurfacing is available within the plot for the parking of vehicles associated with the residential use of the site and for vehicle manoeuvring enabling vehicles to enter and leave the plot in a forward gear. The level of vehicle movements to and from the site is not likely to be so significant as to raise any overriding highway safety issues. Kent Highways raise no objection.

#### **Ecology and biodiversity considerations**

- 6.42 Policy DM1 of the local plan states that proposals should respect the topography and respond to the location of a site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention within the site. Policy DM3 of the Local

Plan states that where appropriate, development proposals will be expected to appraise the value of the borough's natural environment

- 6.43 The site has been is use as a gypsy traveller site for several years and with the exception of the mowed lawn area and hedgerow boundary there are areas of hardstanding. In this context the site currently has limited ecological value.
- 6.44 The proposed caravans will be sited on an area that is currently mown lawn. As part of the proposal new landscaping is proposed along the front boundary and this landscaping (with details and management required by condition) will increase the biodiversity habitats on the site.
- 6.45 As such, a grant of planning permission for the additional mobile home on the current application site, together with native species landscaping/planting to the rear part of the plot to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

#### **Human Rights and Equality**

- 6.46 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.
- 6.47 There is a need to provide a settled base for the upbringing of the grandchild of the applicant and to enable the child to be enrolled in mainstream school and receive an education.
- 6.48 There is also a need for the applicant's daughter, who has a number of medical conditions, to receive as normal an adult life as possible whilst having the support of her extended family providing ongoing care need. These personal circumstances are considered to outweigh the limited visual and landscape impact in the countryside location resulting from the development.

#### **Other Matters**

- 6.49 The Council values comments made by local residents as a result of public consultation. Unlike some other neighbouring boroughs the Council goes beyond the normal statutory requirement and posts a site notice as well as sending individual letters to adjoining addresses. The addresses sent individual letters are selected as the properties that have the greatest potential for direct impact, this normally means properties (as opposed to land) that immediately adjoin the application site.
- 6.50 The selection of properties to be sent individual letters is not based on actual land ownership for a number of reasons as has been suggested in a consultation response. These reasons include the fact that the main assessment of impact from a development proposal would be related to the most sensitive receptor, and this would be adjacent residential accommodation rather than land. In the current application the occupiers of Lindridge Oast did not receive an individual consultation due to separation distance from the application site (175 metres from the site boundary on the opposite side of Marden Road).
- 6.51 As is common with other planning applications and whilst this is an extension to existing Gypsy and Traveller accommodation a planning condition is recommended

seeking details of the how sewage from the additional two static caravans is to be dealt with.

## **7. CONCLUSION**

- 7.01 The visual impact from the proposal will be reduced to an acceptable level and public views of the proposed caravans minimised by the screening provided by the existing boundary screening and proposed strengthening of this landscaping. There would be no significant harm to the landscape and rural area to warrant refusal.
- 7.02 The application proposal, when combined with other gypsy sites in the immediate vicinity, and in relation to existing authorised developments, will not dominate the settled community. In the context of gypsy and traveller accommodation, the application site is in a relatively sustainable location that is not so remote from services and facilities to justify a refusal. The application development does not have any adverse impact on residential amenity. The proposal would not lead to any increased risk to highway safety or ecological impact.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission; Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan DHA\_13299\_01; Proposed Site Layout Plan DHA/13299/03A and Planning Statement. Reason: To clarify which plans have been approved.
- 3) The additional mobile homes hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document); Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 4) No more than six caravans (three statics and three tourers), as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than three shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. The three static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan hereby approved; Reason: To safeguard the visual amenity, character and appearance of the open countryside location.
- 5) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time; Reason: To safeguard the visual amenity, character and appearance of the open countryside location.
- 6) Prior to first occupation of the caravans hereby approved landscaping shall be in place on the site that is in accordance with a landscape scheme that has previously been submitted to and approved in writing by the local planning authority. The landscape scheme shall be designed in accordance with the principles of the Council's landscape character guidance. The scheme shall show all existing trees,

hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed and shall include a landscape buffer across the front boundary at a minimum depth of 5 metres and include a planting specification, a programme of implementation and a [5] year management plan. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

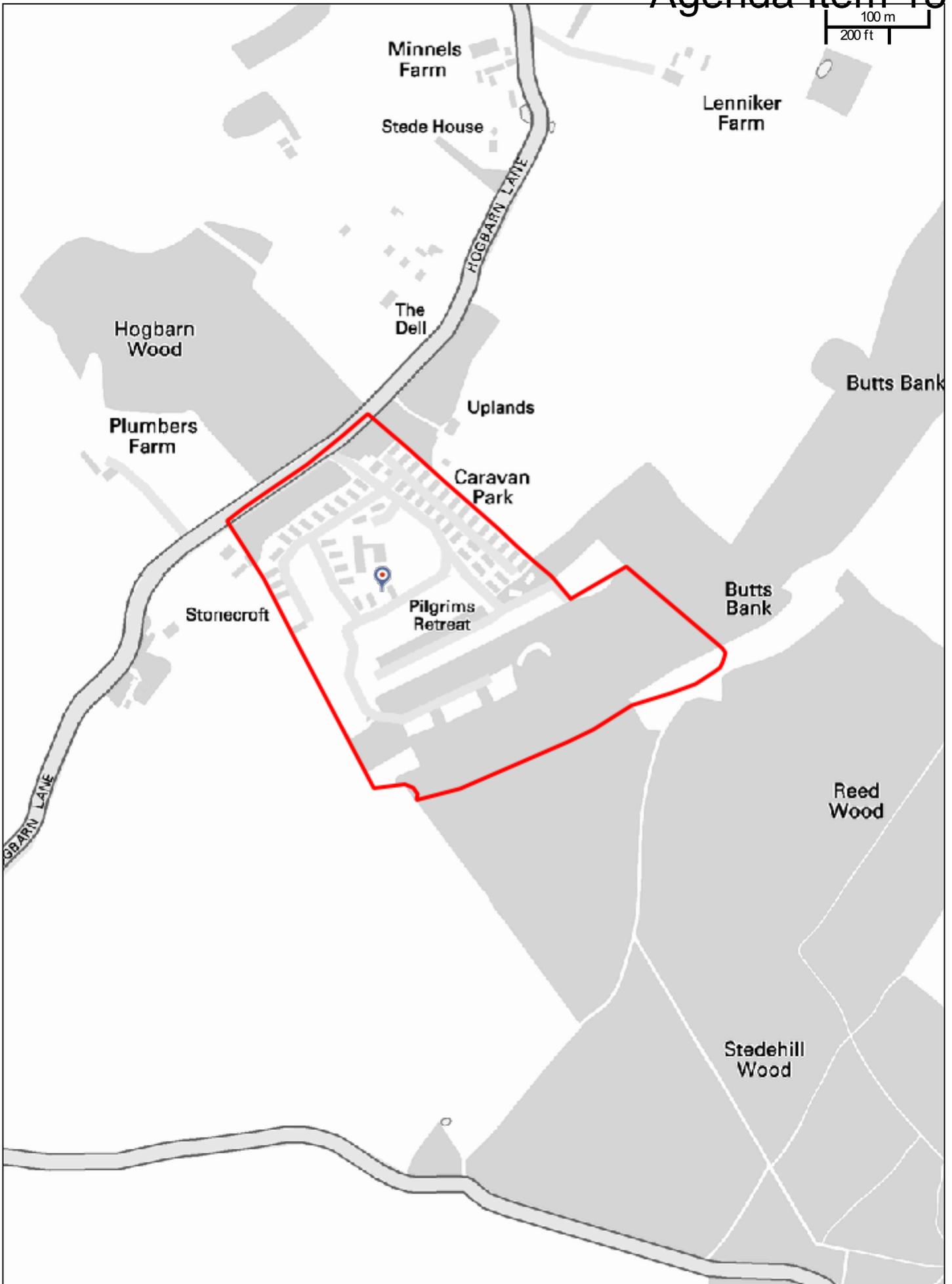
- 7) Any trees or plants within the approved landscape scheme, which, within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Reason: In the interest of visual amenity of the area. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
- 8) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter; Reason: In the interest of amenity.
- 9) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision; Reason: To safeguard the visual amenity, character and appearance of the open countryside location.
- 10) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site; Reason: To safeguard residential and local amenity generally.
- 11) Sewage and foul water disposal facilities shall be in place prior to the first occupation of the caravans hereby approved, with the facilities in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority with the facilities maintained as such hereafter. Reason: To ensure adequate sewage disposal arrangements.

### **INFORMATIVES**

- 1) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries> (<https://bit.ly/2kogNkI>)
- 2) The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- 3) The applicant is advised to follow the guidance in the Mid Kent Environmental Code of Development Practice.

Case Officer: Tony Ryan.



<b>REFERENCE No:</b> 19/502469/FULL		
<b>APPLICATION PROPOSAL:</b> Retrospective application (in part) for the change of use of land from a mixed use of holiday units (180 caravans) and residential (18 caravans) to a residential park home site (for full-time residential occupation) comprising the stationing of 248 caravans, including engineering works to create terracing, hardstanding, retaining walls, and the extension of the site along the south eastern boundary.		
<b>ADDRESS:</b> Pilgrims Retreat, Hogbarn Lane, Harrietsham, ME17 1NZ		
<b>RECOMMENDATION:</b> REFUSE		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The development is contrary to local and national policy/guidance for the following reasons: <ul style="list-style-type: none"> <li>- It fails to conserve and enhance the landscape and scenic beauty of the AONB, as well as the intrinsic character and beauty of the countryside.</li> <li>- It is considered major development in the AONB, and there are no exceptional circumstances to permit this development, and it has not been demonstrated that development is in public interest.</li> <li>- It would authorise 230 residential units in an isolated location that would also have poor access to public transport and be remote from local services and facilities.</li> <li>- It fails to demonstrate the residual cumulative vehicle movements associated with 230 new residential homes would not have a severe impact on the local road network.</li> <li>- It has failed to demonstrate the site can provide adequate provisions for foul and surface water disposal for 248 residential units.</li> <li>- It fails to provide or agree to provide the necessary contributions towards community infrastructure and affordable housing provision in the borough.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> <ul style="list-style-type: none"> <li>- Given the significant planning issues the application raises</li> <li>- Councillors Sams have requested the application to be reported to Planning Committee</li> </ul>		
<b>WARD:</b> Harrietsham and Lenham	<b>PARISH:</b> Harrietsham	<b>APPLICANT:</b> Sines Parks Luxury Living Limited <b>AGENT:</b> Pegasus Group
<b>TARGET DECISION DATE:</b> 06.09.19		<b>PUBLICITY EXPIRY DATE:</b> 04.07.19

## RELEVANT PLANNING HISTORY

Whilst the site has an extensive planning history, the key permissions are highlighted in bold below:

- 19/500936 - EIA Screening Opinion for: Material change of use of land from mixed use (tourism [180 caravans] & residential [18 permanent residential]) to residential for 248 mobile caravans, including engineering works to create terracing, boundary walling, and extension of site along south-eastern boundary – EIA not required
- 17/506484 – Vary conditions 1 & 4 of 96/1132 for retention of expansion of area used for siting static holiday caravans and allow increase in number of static holiday caravans – Declined to determine
- 15/502481 - Submission of details pursuant to conditions 1 (landscaping) and 3 (future management of coppice) of MA/13/1435 – Refused
- ENF/11505 – Breach of planning control as alleged in notice is without planning permission, carrying out of engineering operations – Appeal dismissed and enforcement notice upheld with corrections – South-west corner of site to have hardstanding removed and land remodelled back to its original state
- **MA/13/1435 - Vary condition 4 of 96/1132 to allow expansion of area used for siting static caravans & alterations to land levels - Approved**
- MA/13/0724 - Vary condition 4 of 96/1132 to allow expansion of area used for siting static caravans and operational development to alter land levels – Refused
- MA/12/1910 - Advertisement – Approved
- MA/12/0388 - Extension to clubhouse to form indoor bowls facility – Approved

- MA/12/0378 - Erection of shop and offices building – Approved
- **MA/11/2190 - Vary condition 2 of 03/2343 to allow use of caravans, tents & static caravans for holiday purposes all year round – Approved**
- MA/11/1753 – (Retro) for mobile home for residential use by caretaker – Approved
- MA/11/0897 - Erection of double garage – Approved
- MA/11/0384 - Advertisement consent– Refused
- MA/08/1128 - Extensions and alterations to clubhouse – Approved
- MA/07/0142 – Vary condition 1 of 96/1132 to increase number of residential units from 18 to 27 with reduction of holiday units from 180 to 171 – Refused (dismissed)
- MA/03/2343 - Vary condition 2 of 96/1132 to extend season from 8 to 10mths - Approved
- **MA/02/2056 - Vary condition 4 of 96/1132, to enable static holiday caravans to be sited on area of southern part of site restricted to touring caravans - Approved**
- MA/97/3459 - Submission of details pursuant to condition 6(i) (scheme for provision & management of landscaping & for replacement lighting within area hatched & edged red on plan) of appeal decision related to 96/1132 - Approved
- **MA/96/1132 - Use of land for siting of 180 holiday caravans and 18 residential caravans (inc. extension of site) – Refused (allowed at appeal)**
- MA/85/1597 - Use of caravan for camping in addition to caravans - Approved
- MA/84/0907 - Managers accommodation, amenity rooms/toilets & pool - Approved
- MA/83/0934 - Construction of internal roads, car parking and caravan hardstandings for 178 holiday caravans and 1 residential caravan – Approved

#### **OTHER RELEVANT BACKGROUND INFORMATION**

- The Ancient Woodland along the front of the site and on the opposite side of the road from the site's entrance, and other trees within the site, are protected under Tree Preservation Order no. 10 of 2003.
- There is an Injunction Order on the site (made on 8<sup>th</sup> June 2012) to refrain from works to any tree protected by TPO no. 10 of 2003.
- There is an Injunction Order on the site (made on 18<sup>th</sup> April 2019) to (inter alia) prevent further caravans or mobile homes being brought on to the site.
- The application site currently does not have a valid site licence. The licence holder was a body corporate which is now dissolved. No transfer of the licence had been applied for prior to the company's dissolution. Whilst it is desirable for the operator to obtain a site licence, they may apply for a site licence but can only apply for the numbers granted under the extant planning permission i.e. 198 (being 18 full residential the remaining 180 for holiday occupation) and not the proposed number of 248 permanent residential. Therefore any licence at this time cannot be granted for 248.
- Planning contravention notices have been served on the site and from the responses returned to the Council, there are about 193 caravans being used unlawfully as permanent residences (in addition to the 18 lawful residential caravans) as opposed to being used lawfully as a caravan for holiday purposes only.

The Council is also aware of recent households moving onto the site on a permanent basis.

- In site licence terms there is a requirement for the spacing between occupied caravans to be 6m apart. The submitted plans show a cluster of 6 caravans in the south-western corner that are less than 6m apart. However, as explained above, Pilgrims Retreat does not have a valid site licence.
- A Council Building Control officer visited the site in July 2018, after a major wall had collapsed due to water pressure built up behind wall after heavy rainfall. This was found to be only a garden 'feature' wall. There is another wall (some 3m in height) designed as a retaining structure (rear of units 2-8 Castle Drive) for which a structural appraisal was requested by Building Control. This was received and passed to a Structural Engineer for assessment. One of the suggestions made by the Structural Engineer to the site owner was to have a full assessment of the road drainage system (by a competent drainage engineer), to include storm drainage from each residential unit as these are just discharging to the ground surface, adding to the failure of the road drainage system. This was only advisory as the Council's Building Control Department does not have the authority to pursue this matter. The Building Control Team has also confirmed that there is no ongoing involvement for Building Control, as the works are outside the Building Act 1984.

## 1.0 Summary of planning history and fall back position

- 1.01 Appeal decision references: T/APP/C/96/U2235/643713-4 and T/APP/U2235/A/96/273772/P6 (LPA reference: MA/96/1132), granted use of the land as a caravan and camping park (180 caravans or tents) for tourism relates purposes only and for 18 permanent residential caravans. The Inspector restricted the southern part of the site to touring caravans (with a max. of 25 at any one time) and attached a number of conditions to the consent. For reference, the plan below shows the site location plan related to the appeal decision and the hatched area is the 'southern' part of the site. For reference, the appeal decision is attached to this report (APPENDIX A).



- 1.02 Planning application reference: MA/02/2056 allowed static caravans in a restricted part of the southern area of site, where only touring caravans were previously allowed. This permission is considered to be the most relevant permission for the southern portion of the site, and officers are of the view that only 10 static holiday

units at the south-eastern end of the site can be lawfully stationed and occupied for tourism related purposes. None can be occupied for residential purposes.

- 1.03 The nineteenth residential unit permitted under MA/11/1753 was restricted by condition to caretaker accommodation only. It is understood this that this unit has since been removed.
- 1.04 MA/11/2190 allowed holiday accommodation (180 caravans) to be occupied any time of year.
- 1.05 Planning application reference: MA/13/1435 which was part retrospective and part prospective, allowed 60 additional static holiday caravans to be stationed in an area at the southern end of site, including operational works and an area of land in the southern corner to be planted with new woodland, and the retention of the coppice in the south-eastern corner of the site. The layout plan and decision notice for MA/13/1435 is attached for reference (APPENDIX B). Heart of the matter conditions (1 [landscaping] and 3 [future management of existing coppice woodland]) on this permission have not been discharged and notwithstanding this, what has been stationed/constructed on site is not as per the approved drawings. In terms of caravan numbers on the wider site, the applicant was not seeking more than the 198, as approved under the above referenced appeal decision.
- 1.06 Whilst operational works were permitted under application reference: MA/13/1435, it is considered that this permission remains incapable of full implementation as the works were carried out without approval of conditions. Furthermore, the coppice should have been kept free of development but has been built upon. As such, the majority of development relying upon this permission will not be authorised.
- 1.07 In summary, the site has lawful permission for 198 static caravans to be stationed on it, of which only 18 should be used as permanent residences; and the majority of the engineering works undertaken in the southern part of the site, which includes the terracing of the site, are unauthorised. The description of development (see below) is to seek regularisation of the development already carried out (retrospective) and works proposed to be carried out (prospective).

## **2.0 Site description**

- 2.01 For the purposes of Maidstone's Local Plan, Pilgrims Retreat is within the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty (AONB). The application site measures approximately 11ha in area.
- 2.02 The site is on the south-eastern side of the rural and unclassified Hogbarn Lane; and there are residential properties either side of the site, including 'Uplands' to the north-east, and 'Broomfield' to the south-west. Pilgrims Retreat is located on the slope of the North Downs, around 3.2km to the north of Harrietsham village; and more than 4.8km away from Lenham village. The nearest district centre, as defined by the Local Plan, is The Square in Lenham village which is more than 5.5km away from the site. The local road network is of narrow (unlit) country lanes with no pavements or cycle lanes that are largely at national speed limit; the nearest bus stops are found on the A20, some 3km away from the site.
- 2.03 The Ancient Woodland along the front of the site and on the opposite side of the road from the site's entrance, and other trees within the site, are protected under Tree Preservation Order no. 10 of 2003. Please note that the Ancient Woodland within the application site (red outline), was not in the 1994 revised Provisional Inventory of Kent's Ancient Woodlands, but was in the 2012 Inventory. There are public footpaths in the vicinity of the site, including a public footpath (KH209A) that

runs to the south-west of the site; and public footpaths (KH288 and KH286) running further to the south of the site.

- 2.04 The application site is within Flood Zone 1; there are no listed buildings on the site, with the nearest listed building (known as 'Lenniker') sited some 435m to the north-east of the site (Grade II listed); and there is small circular Area of Archaeological Potential some 370m to the south-east of the site.

### **3.0 Proposal**

- 3.01 This application is for a material change of use of the land from a mixed use of holiday units (180 static caravans) and residential (18 static caravans) to a residential park home site (for full time residential occupation) comprising the stationing of 248 static caravans, including engineering works to create terracing, hardstanding, retaining walls, and the extension of the site along the south-eastern boundary.
- 3.02 The majority of the engineering works, which includes the terracing of the site, undertaken in the southern part of the site are unauthorised; the development involves full-time residential use across the site, with the addition of 50 more static caravans over and above that permitted by the Inspector's decision (increasing the number of full-time residential units by 230); the southern part of the site is now largely populated by static caravans; the site has been extended southwards; and protected trees have been removed without consent. The Council has served Planning Contravention Notices (PCNs) on the owners and occupiers and the results of these show that some 193 caravans are occupied as residences (other than the lawful 18 residential caravans) when the lawful use is as holiday accommodation only, albeit year round holiday use is permitted.
- 3.03 The development is also accompanied by a landscape mitigation plan. This shows new native trees and shrubs planted in the south-western corner of the site, and new native tree and hedgerow planting along the south-western boundary of the site. The plan also shows the retention of existing trees on the site, as well as new tree planting; and a wildflower grass strip and new woodland edge would be planted at the southern end of the site.
- 3.04 The assessment of this application will also focus on aspects that are normally covered by the site licence (i.e. drainage and sanitation). This is considered reasonable to do in this instance given that the (subjective and vague) site licence conditions relating to such matters are not currently enforceable as the site licence is invalid, and there is an obligation to ensure that the site provides adequate provisions of foul and surface water disposal for a site with 248 residential units. This is particularly when the development is part retrospective, and it is not known if the surface water and sewage disposal systems are adequate.

### **4.0 Policy and other considerations**

- Local Plan: SS1, SP17; SP20; ID1; DM1, DM3, DM8, DM19, DM23, DM30
- National Planning Policy Framework (2019)
- National Planning Practice Guidance
- Landscape Character Assessment (amended July 2013) and 2012 Supplement (saved sections of LCA and Landscape Guidelines 2000)
- Natural England Standing Advice on Ancient Woodland
- AONB Management Plan (2014-19) & Landscape Design Handbook
- Harrietsham NHP: Pre-submission consultation withdrawn 5<sup>th</sup> May 2015

## 5.0 LOCAL REPRESENTATIONS

- 5.01 111 representations received:
- 109 representations (from residents of the site) are in support of application
  - 1 objection raises concerns over need for contributions to infrastructure; highway safety; and what impacts development has in terms of water pressure, drainage, flooding and sewage problems
  - 1 representation neither objects nor supports development, but does oppose another retrospective application on this site, and current site license should be enforced

## 6.0 CONSULTATION RESPONSES

6.01 **Councillors Sams:** If minded to recommend approval of application it is requested that application is reported to Planning Committee on the grounds of the size of the application and the impact on the health and wellbeing of the residents of the site and the wider community.

6.02 **Harrietsham Parish Council:** As there is an injunction on site, the parish council feels it would be inappropriate to make a recommendation. However, they wish to make the following (summarised) points:

- *There are errors in Travel Plan*
- *How will Travel Plan Co-ordinator being employed on site be monitored?*
- *Site is not safely accessible on foot or by cycle*
- *Development can clearly be seen from within AONB and beyond*
- *Pilgrims Retreat not included in housing figures for Harrietsham*
- *Does not support local economic growth and not served by public transport*
- *Increase in vehicle traffic has unacceptable impact on local roads*
- *No exceptional circumstances; need not demonstrated; expansion not in public's interest*
- *Concerns site is unsafe, in terms of terracing and caravan bases*
- *Both foul and surface water have not been addressed*
- *Development will affect distinctive landscape character of AONB*
- *Glebe Medical Centre overstretched and local roads unsuitable for traffic generated*
- *Trees felled to accommodate additional caravans and there is a TPO in place on site*
- *Visitor parking removed contrary to LP policy DM23*

*Parish has sympathy for occupants and suggested common sense approach would be only the 212 properties currently occupied should have residential status. Additional dwellings should be refused and additional homes and bases removed, reinstating all of land devastated without permission. Due to current size of development, Parish feels it appropriate to stop future expansion of site with permanent court injunction put in place.*

6.03 **Finstead Parish Council:** No representations received.

6.04 **Kent Downs AONB Unit:** Raises objection (APPENDIX C).

6.05 **Environmental Protection Team:** Raises no objection.

6.06 **KCC Highways:** Raises objection.

6.07 **Landscape Officer:** Raises objection.

6.08 **KCC Biodiversity Officer:** Raises no objection.

6.09 **KCC Drainage:** Raises no objection.

6.10 **Environment Agency:** Assessed application as having low environmental risk.

6.11 **Southern Water:** Raise no objection.

6.12 **Forestry Commission:** Confirms Ancient Woodlands are irreplaceable.

6.13 **Kent Police:** Raise no objection.

- 6.14 **KCC Economic Development:** Financial contributions requested.
- 6.15 **MBC Parks and Open Space:** Financial contributions requested.
- 6.16 **NHS Primary Care Team:** Financial contributions requested.
- 6.17 **MBC Housing Manager:** Affordable housing provision requested.

## 7.0 APPRAISAL

### Main issues

#### Maidstone Local Plan (2017)

- 7.01 In accordance with Local Plan policy SS1 (Borough Spatial Strategy), the principal focus for new residential development in the borough is the urban area, then rural service centres and then larger villages. As set out in Local Plan policy SP17 (countryside), new development in the countryside will not be permitted unless it accords with other policies in this plan and does not result in harm to the character and appearance of the area.
- 7.02 Local Plan policy DM30 (design principles in countryside) allows for development in the countryside provided it is of a high quality design; it satisfies the requirements of other policies in the Local Plan; and it meets the following (summarised/relevant) criteria:
  - *Type, siting, materials, design, mass & scale of development and level of activity would maintain, or where possible, enhance local distinctiveness including landscape features*
  - *Impacts on appearance and character of landscape would be appropriately mitigated*
  - *Proposals would not result in unacceptable traffic levels on nearby roads*
- 7.03 Local Plan policy DM1 (principles of good design) seeks high quality design and for development to respond positively to, and where possible enhance, the local and natural character of the area. It also seeks development to respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention in the site.
- 7.04 The development site is within the AONB and the statutory duty of the local planning authority requires that any proposals have regard for the purpose of conserving and enhancing the natural beauty of the AONB. Local Plan policy SP17 states that "*...great weight should be given to the conservation and enhancement of the Kent Downs AONB.*"
- 7.05 Local Plan policy DM3 (natural environment) seeks to protect positive landscape features such as Ancient Woodland; and Local Plan policies SP20 and ID1 relate to affordable housing and community infrastructure provision respectively. These matters will be discussed in more detail later on in this report.

#### Revised National Planning Policy Framework (2019)

- 7.06 What is key to note here is that the Council does have an up to date Local Plan and this is the starting point for decision making; and where planning applications conflicts with this Local Plan, permission should not usually be granted unless material considerations indicate otherwise.
- 7.07 The NPPF is also clear that good design is a key aspect of sustainable development; and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 170 of the NPPF also states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

7.08 Of most relevance, paragraph 172 of the NPPF states the following:

*Great weight should be given to conserving and enhancing landscape and scenic beauty in.....AONBs, which have the highest status of protection in relation to these issues. Conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. Scale and extent of development in these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

7.09 As set out in the NPPG, it is clear that the scale and extent of development in an AONB should be limited, in view of the importance of conserving and enhancing its landscape and scenic beauty. All development in the AONB needs to be located and designed in a way that reflects its status as a landscape of the highest quality.

Other relevant matters

7.10 Section 85 of the Countryside and Rights of Way Act 2000 places an explicit duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to or so as to affect land in an AONB:

*85(1): In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*

7.11 Pilgrims Retreat falls within the Dry Valleys and Downs Landscape (Area 7: Wormshill, Frinstead and Otterden Downs and Dry Valleys) within Maidstone's Landscape Character Assessment (amended July 2013). The guidelines for this area are to 'conserve and reinforce'; and the most relevant considerations are outlined below:

*Key characteristics:*

- *Landscape forms part of Kent Downs AONB*
- *Gently undulating landform of dry dip slope valleys and ridges*
- *Many large woodland tracts with oak and ash*
- *Chalk grassland pasture in dip slope valleys*
- *Arable fields on ridges*
- *Strong network of species rich native hedgerows*
- *Narrow winding lanes which most often are lined by hedgerows*

*Summary of actions:*

- *Conserve and reinforce large tracts of woodland, especially where AW is present*
- *Reinforce management of historical coppice by encouraging management of areas of unmanaged coppice stools*
- *Conserve good network of hedgerows & reinforce management of hedgerows*

7.12 The Kent Downs AONB Management Plan does not form part of the statutory Development Plan, but the Council has adopted it and it is a material consideration when assessing any planning application. The AONB Management Plan helps to set out the strategic context for development; it provides evidence of the value and special qualities of this area; it provides a basis for cross-organisational work to support the purposes of its designation; and it details how management activities contributes to its protection, enhancement and enjoyment. The following policies within this Management Plan are considered to be of particular relevance: SD1; SD2; SD3; SD7; SD8; SD9; LLC1, WT1, and WT7. In summary, these policies seek to conserve and enhance the natural beauty and distinctiveness of the AONB, which

is recognised as the primary purpose of designation; and development or changes to land use will be opposed where they disregard or run counter to the primary purpose of Kent Downs AONB.

- 7.13 There is also an AONB Landscape Design Handbook that includes landscape character areas (LCAs). The Kent AONB Unit has confirmed that the site lies in the Mid Kent Downs LCA, where overall landscape character objectives seek to conserve the small scale of roads and villages and the remote quality of the countryside; and to control urban fringe pressures. Within the Mid Kent Downs LCA, the site lies in the Bicknor LCA, specific guidelines include to conserve and manage the dense belts of broadleaf woodland; to create wooded edges to settlements; and to seek the use of sympathetic local materials such as brick, tile and flint.

### **Is application major development in the AONB?**

- 7.14 For the purposes of paragraph 172 of the NPPF, this assessment is a matter of planning judgment to be made by the decision maker when taking into account all of the circumstances of the application and the site's context. It is also important to note that the phrase 'major development' is to be given its ordinary meaning, as established in High Court judgement *Aston v SoS for Communities and Local Government [2013] EWHC 1936 [Admin]*:

*Paragraph 94: I am satisfied that the Inspector made no error of law when he determined that the meaning of the phrase major development was that which would be understood from the normal usage of those words.*

- 7.15 It would therefore be wrong in law to:
- Apply the definition of major development contained in the Development Management Order to para. 172 of NPPF
  - Apply any set or rigid criteria to define 'major development'
  - Restrict the definition to proposals that raise issues of national significance.
- 7.16 When making a judgement as to whether a development in the AONB is major or not (in light of its nature, scale and setting), the potential for significant harm to the AONB should be a primary consideration. This however does not require (and ought not to include) a detailed assessment as to whether the development will in fact have such an impact.
- 7.17 It must be stressed again that as a matter of planning judgement, the decision maker must consider an application in its local context. This is implicit in High Court judgement *R. (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)*, when it was noted that...."*major developments would normally be projects much larger than 6 dwellings on a site the size of Forge Field*". It appears that Linblom J had considered the possibility that, depending on local context, there may be situations where a project of 6 dwellings could amount to major development for the purposes of paragraph 172 of the NPPF.
- 7.18 Specific to this application, it is important to first consider what is authorised on the site. Notwithstanding the site's extension and the restrictions on the number of units permitted in the southern part of the site, the appeal decision (as referenced in paragraph in 1.01 above) does authorise the lawful use of the land for the stationing of 198 static caravans. However, even if simply considering the proposed increase in number of authorised static caravans on the site (which is 50), in this wider rural landscape setting and given that they would be residential in nature, the proposal constitutes major development. The authorisation of even 50 additional caravans is likely to have a significant adverse impact on the purposes for which the AONB has been designated.

- 7.19 Taking into account all of the above matters and the site's local context, it is considered that the development does constitute major development in the AONB. It is therefore necessary to apply the two tests as informed by the three mandatory assessments referred to in paragraph 172 of the NPPF.
- 7.20 There must be both exceptional circumstances for allowing the proposal and it must also be demonstrated that the proposal is in the public interest. The judgement in *R (Mevagissey Parish Council) v Cornwall Council [2013] EWHC 3684 (Admin)* sets out the approach by which decision-takers should address the planning balancing exercise, such that: "*In coming to a determination of such a planning application under this policy, the committee are therefore required, not simply to weigh all material considerations in a balance, but to refuse an application unless they are satisfied that (i) there are exceptional circumstances, and (ii) it is demonstrated that, despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest*". The assessments referred to in paragraph 7.08 above (a, b & c of NPPF paragraph 172) should be considered and these are returned to later.
- 7.21 I shall apply the balancing exercise in my conclusion section of this report.

#### **Location of development and highway safety implications**

- 7.22 Whilst the site is authorised to have 198 static caravans on the site, only 18 of these should be in permanent residential use. It is not considered that the authorised 18 residential units constitutes a 'settlement': (see *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610*), and 230 additional residential units here would be remote from any other recognisable settlement in the wider countryside. Whilst the situation on the ground is different (i.e. from evidence collected from the PCN's there are about 193 caravans being used unlawfully as permanent residences [in addition to the 18 lawful residential caravans] as opposed to being used lawfully as a caravan for holiday purposes only), in planning terms the other static caravans on the site should only be used for bona fide tourism related purposes (albeit they can be used 12 months of the year), and whatever sense of community they may create, this should be transient and cannot be considered as a 'settlement' for the purposes of the NPPF, as they are not authorised dwellings. It is therefore a matter of fact and planning judgement that the development would add 230 isolated homes in the countryside, and not one of the circumstances set out in paragraph 79 of the NPPF applies.
- 7.23 The development would result in the authorisation of 230 new residential units at Pilgrims Retreat. The nearest village (Harrietsham) is approx. 3.2km away; Lenham is more than 4.8km away; the local road network is of narrow country lanes that are unlit with no pavements or cycle lanes and are largely at national speed limit; the nearest bus stops are found on the A20; and to reach the site from the A20 is via a steep hill (Stede Hill). Without evidence to the contrary, there is also no assumption made that all residents are retired and so travelling for work purposes must also be considered.
- 7.24 The agent has confirmed that Pilgrims Retreat does have an all year round swimming pool; there is a bar on site (closed Mondays); there is a restaurant in the bar that is open six days a week (10:30-16:30); a mobile fish and chip van which attends the park every Monday from 5-7pm; the currently closed shop on site is being refurbished and due to re-open in September 2019; and there are discussions about having a separate meeting hub for residents where they will be able to have tea and coffee if they do not wish to use the on-site bar facilities.

- 7.25 With the above considered, it is not realistic to say that the majority of residents (who are currently over 50yrs of age) will regularly walk and cycle to local services and facilities or places of employment; and whilst there are some facilities on site, occupants of the site are/will be heavily reliant on the private car for their day to day living. The Highways Authority are also of the view that the site is unsustainable in terms of its location.
- 7.26 Furthermore, as set out in paragraph 103 of the NPPF, "*significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*". This development (for 230 new dwellings) is considered significant; it is in an unsustainable location; and it is not accepted that the development (even with the introduction of a minibus service running into town three times a week, as briefly suggested in the submitted Transport Technical Note [para. 4.13]) could be realistically made acceptably sustainable. So whilst it is accepted that sustainable transport opportunities are likely to be more limited in rural areas, the lack of any apparent available or achievable sustainable transport options for 230 new dwellings would see a major development unable to adequately support the objectives set out in paragraph 102 of the NPPF which seek to ensure that transport issues are considered from the earliest stages of plan-making and development proposals. The Highways Officer is also of the view that the development does not meet the objectives set out in paragraphs 102 and 103 of the NPPF; and without sustainable transport options being available, a Travel Plan in their view has little merit. This weighs against the development.
- 7.27 The Highways Authority has reviewed all of the submitted information relating to transport, and has considered the application as one for 230 new homes. Within the submitted information, it has not been established what proportion of residents on the site are retired or employed, and this is considered to be an issue of fundamental importance in transport terms. Without clarity, the Highways Authority consider the surveys undertaken to have no value and have no basis for undertaking projections/forecasts. Furthermore, the site is in a rural area accessed by rural, narrow roads. The applicant previously undertook a conflict analysis for Hogbarn Lane (para 5.10 of original Transport Statement); and this document also makes reference to rural lane capacity research (para 5.11). Without an impact assessment undertaken for 230 new homes, The Highways Authority objects to the development. This weighs against the development.
- 7.28 No objection is raised to the application in terms of parking provision.

### **Visual impact**

- 7.29 The appeal permission granted 198 caravans (18 of which for permanent residential use), but restricted the area to which these could be stationed on to the northern part of the site. Permission MA/02/2056 then permitted the stationing of 10 caravans on the southern part of the site for touring purposes only but did not increase the overall numbers permitted on the whole site.
- 7.30 MA/13/1435 granted permission for 60 static holiday caravans to be stationed in the southern end of site (leaving 138 in the northern section), and included operational works and an area of land in the southern corner to be planted with new woodland, and the retention of the coppice in the south-eastern corner of the site. However, as previously explained, heart of the matter conditions on this permission have not been discharged; notwithstanding this, what has been stationed/constructed on site is not as per the approved drawings; and whilst this permission remains extant, it remains incapable of full implementation and the majority of development relying upon this permission is not authorised.

- 7.31 As such, in terms of fall back the majority of the engineering works undertaken in the southern part of the site are unauthorised; and planning permission MA/02/2056 is considered to be the most relevant permission for the southern portion of the site (in terms of what can be lawfully stationed on this part of the site). The submitted Landscape and Visual Assessment (LVA) considers the baseline to be that at which planning permission was allowed in 2013, but as set out this is considered to be incorrect.
- 7.32 This application should be tested against the purpose of the AONB designation, which is to conserve and enhance the natural beauty of the AONB (in accordance with Local Plan policy and the NPPF), whilst having due regard to the fall back position.
- 7.33 In general terms, the submitted LVA draws conclusions that the landscape sensitivity of the site as being 'low to medium'. However, both the Council's Landscape Officer and the Kent Downs AONB Unit disagrees with this conclusion. Instead, the sensitivity of the landscape should be considered as 'high' or 'very high', given its AONB location. Indeed, whilst not prescriptive, the Landscape Institute's *Guidelines for Landscape and Visual Impact Assessment* makes it clear that landscapes that are nationally designated (such as AONB's) will be accorded the highest value in the assessment. The Landscape Officer does not consider the LVA to have reached an appropriate conclusion, because it has not considered the true baseline; and it has not attached adequate weight to the importance of the nationally designated AONB.
- 7.34 The Kent Downs AONB Unit's comments are summarised below:
- *Such development rarely constitutes appropriate development, as utilitarian design of caravans fails to conserve or enhance local character, qualities and distinctiveness of AONBs. Therefore it fails to meet key requirement of conserving & enhancing landscape & scenic beauty within AONBs.*
  - *Significant extension in number & density of caravans, in remote location, would fail to comply with guidelines for development in Mid Kent Downs LCA - would clearly be in conflict with objectives of KD AONB Management Plan as well as national & local plan policies.*
  - *Clearance and levelling of 0.8ha of coppiced valley side with artificially engineered platforms to accommodate expanded area of permanently stationed caravans does not constitute a 'minor' change to landscape, nor would it be a 'low to medium' magnitude of change to landscape character.*
  - *Harm is exacerbated by removal of existing vegetation/trees; & remodelling of land levels to form artificial terraces & retaining walls, introducing suburban features in rural location.*
  - *Harm arises given increase in lighting & caravan numbers and their permanent occupation.*
  - *Increase in amount & density of caravans doesn't allow for significant planting between units to help assimilate them into rural surroundings; & shown landscape mitigation is very meagre, failing to adequately compensate for substantive harm resulting from proposal.*
- 7.35 The application site is well screened from Hogbarn Lane, however, public views of the development are possible from Stede Hill, Flint Lane and the public footpath (KH209A) to the south-west of the site. In any case, NPPF advice relating to the countryside is unambiguous when it states that it is the intrinsic character and beauty that should be protected, as well as the landscape and scenic beauty of an AONB. It is considered that this protection is principally independent of what public views there are of the development, and associated more to the protection of the nature of the land in itself.

- 7.36 This view is echoed by the Kent Downs AONB Unit, who also considers it incorrect to assess a lower impact on the landscape character on the basis of a lack of wider visibility of site:

*"We consider the high sensitivity of the site and a high magnitude of change would give rise to a major adverse (i.e. significant) effect on landscape character. Furthermore, reducing the assessed levels of harm on the basis of the small scale of an area affected, and its visual dissociation with the surrounding area is wholly inappropriate. Whilst the site is relatively contained within the wider landscape and the development may not affect wider long-distance views, this is not the sole test for the acceptability of development in an AONB. The AONB is a wide and large expanse of area and any development which significantly detracts from elements which contribute to that wider natural and scenic beauty would not conserve or enhance it. This development would have a detrimental impact on many of the special characteristics and qualities of the Kent Downs, including landform and views; tranquillity (through introduction of additional lighting); and biodiversity rich habitats and woodland and trees. This is contrary to the conclusion of the submitted LVA that states: '...there would only be a very minor impact on very few elements of the special qualities and characteristics of the AONB'.*

- 7.37 To summarise, with regards to the Maidstone Landscape Character Assessment, the Landscape Officer does not consider the development to be appropriate in terms of the relevant recommended actions for landscape character area in which it sits; and further to this, proposed mitigation planting is considered to be wholly inadequate and inappropriate to the location. The Kent Downs AONB Unit also conclude by stating that the development weakens the characteristics and qualities of the natural beauty, having a significant detrimental impact on the landscape character; and the development disregards the primary purpose of AONB designation, namely the conservation and enhancement of its natural beauty, contrary to paragraph 172 of NPPF and Local Plan policy SP17.
- 7.38 It should also be stressed that the whole southern section of the site is covered by TPO no. 10 of 2003, which is an effective landscape designation. As MA/13/1345 is valid but not capable of further implementation, the baseline line for assessment should be with the trees in position on this part of the site (shown on plan APPENDIX B). Whilst the loss of some trees was accepted under MA/13/1345, as is evident on the plan, it was important to retain the large coppice of TPO trees and to establish substantial (and appropriate) new tree planting on the site, in terms of mitigating the landscape impact of the development. The development now being considered has largely removed the trees on site, and poor/limited mitigation planting has been proposed. As explained in more detail below, the loss of this swathe of trees is to the detriment of the scheme in visual amenity terms; and the application fails to provide adequate mitigation to compensate against the loss of these positive landscape features.
- 7.39 In considering the consultation responses, it is agreed that the site's extension; the level of engineering works undertaken within the southern section of the site; the addition of 50 additional caravans; the loss of protected trees; and the increased light pollution resulting from more static caravans that are occupied permanently, will not conserve and enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, and it would not positively recognise the intrinsic character and beauty of the countryside hereabouts. The adverse impact upon this nationally designated landscape of the highest value weighs against this development.

#### **Arboricultural/landscaping implications**

- 7.40 As previously set out, whilst planning application reference: MA/13/1435 remains valid, it is incapable of full implementation as the works were carried out without approval of conditions; and notwithstanding this, what has been

stationed/constructed on site is not as per the approved drawings. As such, any development relying upon this permission will not be authorised.

- 7.41 The development submitted under MA/13/1435 included the retention of the protected coppice woodland in the south-eastern corner of the site; the retention of existing trees on the lower section of the site; the planting of interspersed specimen trees and a new hedgerow along the southern boundary of the site; and the creation of a new woodland area in the south-western corner of the site (stated at some 400 new trees). It is clear that the protected trees that were found in the lower section of the site have largely been removed; and the new woodland, specimen trees and hedgerow have not been planted. Instead, the lower section of Pilgrims Retreat is densely populated with static caravans and associated roads/hardstanding.
- 7.42 It must be made clear that the officer was minded to recommend approval of the development shown under MA/13/1435 on the basis of the importance of substantial mitigation as shown on the approved plans. It should also be noted that the development approved under MA/13/1435 did not increase the number of caravans on the site, which remained at 198, allowing for a softer less intense development of caravans across the whole site. Indeed, the committee report's conclusion states:

*6.2 Proposed scheme includes stationing of 58 additional caravans, 11 lower than previously proposed, and which when combined with those already on site would be below the 198 permitted. Proposal includes significant amount of landscaping with a mixture of approximately 400 new native trees and shrubs that are in keeping with the landscape character of the area. A significant woodland area is now proposed in the southwest corner which would soften public views from the west and south here. The mix of new species would also result in an enhancement in biodiversity from the previous hawthorn scrub.*

*6.3 Application would allow unambiguous control over remaining landscape areas through conditions and landscape management and maintenance regimes.*

*6.4 Site is an existing caravan site which is visible and out of place in the Kent Downs AONB. The proposal, whilst extending the site southwards, due to the extensive new landscaping and changes to the banks to soften their appearance would not result in significant additional harm to the character and appearance of the Kent Downs AONB.*

*6.5 Overall, I consider that the proposed reduction in caravans and increases in landscaping are sufficient to overcome the previous reasons for refusal and on this balanced case I consider that the harm caused is not so significant to warrant refusal when balanced against the landscape replacement, biodiversity improvements and future control over the site, and permission is recommended.*

- 7.43 The current layout of the site has retained some existing trees. However, the Council's Landscape Officer questions their suitability for long-term retention, given the significant encroachment into the root protection areas during construction works; the significant changes in levels likely to lead to premature decline; and the inappropriate proximity of protected trees to occupied units that are resulting in applications for works to protected trees because of safety fears as the trees are 'too close to park homes'. As will now be summarised, the Landscape Officer objects to the development for the following reasons:

*Direct loss of trees and woodland*

- 7.44 Whilst an assessment cannot be made on the quality of the trees/woodland lost, the retention of this planting was key in the determination of MA/13/1435 in terms of screening the development and to safeguard amenity space for residents. Retained mature tree stock is an important visual element of large sites, acting as a foil to built forms, filtering views and providing some screening in longer views to ensure developments sit well in surrounding countryside.

*Indirect loss of trees & pressure for inappropriate pruning/removal*

- 7.45 The site layout has not respected the location of existing trees, which has resulted in development that is inappropriately close; and development has clearly taken place within RPAs, contrary to advice contained within BS5837:2012. This includes not only the siting of park homes within RPAs, but extensive ground level changes, excavations that have resulted in root severance, and ground compaction from the use of heavy machinery. It is clear that most of retained tree stock is suffering as a result, with many trees showing signs of premature decline.
- 7.46 The inappropriate relationship between retained trees and park homes has already led to works, some of which have been subject of applications under the TPO, to prune or remove trees simply on the basis they are too close to homes, or because the trees are showing signs of decline. Such applications are particularly difficult to resist when the juxtaposition of mature trees and park homes mean that even minor deadwood failures could result in building and property damage, or injury to occupiers. Occupants are clearly concerned about fear of failure in our experience of dealing with applications, and also complain about other problems such as leaf litter and shading. The result of this situation is any retained mature trees will either die or be pruned to such an extent they have little, if any, public amenity value.

*Inadequate space for mitigation planting*

- 7.47 The cramped site layout and lack of space around and between the park homes does not allow for new planting of a type appropriate to the landscape character of area to mitigate extensive tree loss on the site. This includes the trees already lost, and likely to be lost as a result of premature tree decline and pressure to prune or fell. The many Chusan Palms planted are not considered to be adequate mitigation, as these are not trees, but woody herbs and certainly not a species that are appropriate to the character of area. Replacement tree planting should be in accordance with Council's Landscape Character guidance, with species of a suitable ultimate size to ensure the development sits well in surrounding landscape, with sufficient space to ensure they can reach mature size without conflict. The layout does not provide sufficient structural landscaping space to enable this.

*Summary*

- 7.48 It is considered that the development has and will result in permanent tree loss on a scale that is harmful to the amenity of park home users and the wider landscape; and there is insufficient space to be able to provide mitigation planting to help screen and integrate the development into the surrounding countryside. This weighs against the development.

**Foul and surface water disposal**

- 7.49 The development site is within Flood Zone 1 and the Environment Agency has assessed the application as having a low environmental risk and has raised no objections (notwithstanding the applicant may be required to apply for other consents directly from the Environment Agency). Southern Water has also raised no objection; and the Environmental Protection Team would seek details of the packaged treatment plant. The KCC Drainage Team has also assessed the development as a low risk development and require no further information but do comment that the proposed improvements to the ditch, through incorporating check dams, should be applied to the trench as the attenuation volume within the ditch would be increased.
- 7.50 Notwithstanding this, it is considered important under this planning application to ensure that the site provides adequate provisions of foul and surface water disposal for a site with 248 residential units. Indeed, this development is in part retrospective, and it is not considered appropriate to deal with these matters by way of condition if the application was to be approved, when the site is occupied

and it is not known if the surface water and sewage disposal systems are adequate. Furthermore, the site licence conditions relating to drainage and sanitation, which in any case are model conditions that are very subjective and vague, are not currently enforceable as the site licence is invalid.

- 7.51 As set out in the amended FRA and Drainage Strategy Report (Aug 2019), the existing situation is as follows:

*SURFACE WATER DRAINAGE: Rainwater drains from the roofs of the caravans via downpipes onto impermeable surfacing. Several gullies across the site then transport water to the ditch at the southern end of site. Water overflow also goes to the ditch.*

*FOUL SEWAGE DISPOSAL: There are 3 package treatment plants on the site that also discharge to the southern ditch. The package treatment plant at the south-western corner of site is overflowing, with untreated foul waste draining into small ditch. The Environment Agency are apparently aware of this ongoing issue and the applicant is waiting for an insurance agreement to provide a replacement treatment plant.*

- 7.52 In terms of surface water drainage, the submitted report considers infiltration SuDS presents the most viable solution for draining surface water run-off. It goes on to state that testing will need to be carried out to confirm the viability of this across the site, and to determine whether or not the ditch has sufficient capacity to accommodate run-off for 248 residential caravans. Based on uncertainty with respect to the percolation rate of silts, the report recommends that infiltration testing is undertaken in the base of the existing ditch to confirm the existing permeability of the ground. This testing has not been carried out.

- 7.53 It is also worth noting here that there was the incident where a build up of surface water led to the collapse of a non-structural wall which could have had fatal consequences. Furthermore, with regards to the retaining wall to the rear of units 2-8 Castle Drive, for which a structural appraisal was undertaken by the applicant, the subsequently recommended assessment of the road drainage system (by a competent drainage engineer) does not appear to have been carried out or submitted as part of this planning application. Whilst this was only advisory at the time, as the Council's Building Control Team did not have the authority to pursue this matter, without it there remains uncertainty and there is the potential risk to health if this wall did indeed collapse.

- 7.54 In terms of foul sewage disposal, the report confirms that the performance of the treatment plants has not been assessed and it is not known if they also have sufficient capacity to manage the volume and rate of wastewater discharge draining to them from 248 caravans in residential use. The report recommends surveys to be carried out to determine the current capacity and performance of the network. This testing has not been carried out. The submitted information also fails to explain how, given the re-graded land and the cut and fill technique used to station caravans on the land, how the applicant is going to deal with the overflowing tank, or indeed (if required) replace or install new underground tanks on the site. It has also not been demonstrated that there is room on the site to deal with this issue, i.e. if new and/or replacement tanks will be required, what with any underground tanks having caravans above them, or very close to them.

- 7.55 This retrospective application has failed to demonstrate that surface water and sewage disposal can be dealt with appropriately on the site; and it is evident that the development is likely to create a requirement for new and/or improved surface water and sewage disposal infrastructure. The development is therefore contrary to Local Plan policy ID1, as it has failed to demonstrate the site has sufficient infrastructure capacity available either now or in the immediate future, and this raises a health and safety risk for occupants of the site.

### **Biodiversity implications**

- 7.56 The Biodiversity Officer confirms that because the site has already been cleared, it is accepted that the preliminary ecological appraisal is sufficient to determine application, and no further ecological information is required.
- 7.57 In summary, the Biodiversity Officer is of the view that whilst replacement woodland planting and the creation of wildflower grassland strips would not completely mitigate for the loss of the woodland, it would create habitats (if managed properly) that will benefit biodiversity. If minded to approve this application, species would need be secured by way of condition with a habitat establishment plan (to be native and representative of those trees found within the adjacent woodland).
- 7.58 Given that the habitats within and adjacent to the site area are likely to experience high recreational pressure and impacts from development (including increase in lighting), the Biodiversity Officer has recommended the need for a Landscape and Ecological Management Plan to be produced and implemented. If this application were to be approved, imposing such a condition is considered reasonable.
- 7.59 Again, if minded to approve this application, suitable conditions would also be imposed for a bat sensitive lighting plan, and for further ecological enhancements as set out in the submitted preliminary ecological appraisal.

### **Ancient woodland**

- 7.60 Ancient Woodlands are irreplaceable, and the NPPF (paragraph 175) is clear in that *"...development resulting in loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists"*
- 7.61 The woodland within the application site that runs along the roadside boundary is Ancient Woodland. Whilst static caravans and associated hardstanding etc. are within 15m of this woodland, the fallback position remains that the original appeal decision did allow for 198 static caravans to be sited in the northern section of the site; and it is accepted that the development has been within 15m of this Ancient Woodland before it was designated as such in the 2012 Ancient Woodland Inventory. It is therefore considered unreasonable to now raise an objection on this issue or insist on a buffer zone here. Notwithstanding this, the woodland in question is now designated Ancient Woodland and protected under TPO no. 10 of 2003, and so any potential works to the woodland in the future will require the consent of the local planning authority.
- 7.62 The Biodiversity Officer recommends the need for the Ancient Woodland within the application site, as well as the woodland across the road from the site (within the applicant's ownership) to be actively managed to minimise impacts from the development. Whilst a caravan site has been here for many years, the development would see an addition of 50 more static caravans that would be used for residential use above what has been previously allowed in planning terms. With 248 households permanently on the site, there is expected to be increased pressure on the Ancient Woodland, in it being used for recreation purposes by residents. The Landscape Officer also makes the point that the loss of the trees and woodland within the site, and the lack of amenity space around the caravans is likely to increase recreational activity in the Ancient Woodland across the road from the site, which is discouraged by current planning policy and standing advice. If this application were to be approved, it is therefore considered reasonable to impose a condition to secure an appropriate management plan of the woodland, to minimise impacts from the proposed development.

- 7.63 For clarification purposes, the development is not within 15m of the Ancient Woodland to the south-east of the site; and this woodland is also on land not in the ownership of the applicant.
- 7.64 As an aside, it should be noted here that the submitted Arboricultural Impact Assessment (para. 2.6) suggests that the Ancient Woodland is of 'local importance', on the basis that the local landscape is relatively rich in this habitat. This view is strongly refuted, and the NPPF and current standing advice is clear that it does not allow for such 'downgrading' of Ancient Woodland, which is considered to be of national importance and is accordingly afforded a high status in planning policy. Indeed, there appears to be no precedent set whereby Ancient Woodland was considered to be of lesser importance due to a perceived local abundance.

### **Community infrastructure contributions**

- 7.65 This development is excluded from the CIL Regulations. This does not mean that financial contributions cannot be sought via s106 of the Town and Country Planning Act 1990. Financial contributions through s106 are used to mitigate the specific requirements of a development site, in order to make the development acceptable in planning terms. Any request for such contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The Reg 122 criteria sets out that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

- (a) Necessary to make development acceptable in planning terms;
- (b) Directly related to development; and
- (c) Fairly and reasonably related in scale and kind to development.

- 7.66 In this regulation "*planning obligation*" means a planning obligation under s106 of the TCPA 1990 and includes a proposed planning obligation.
- 7.67 The Council's Regulation 123 List identifies the infrastructure types and/or projects which it intends will be, or may be, wholly or partly funded through s106 planning obligations. The Infrastructure Delivery Plan (IDP) provides the analysis for how specific infrastructure delivery requirements will be met.
- 7.68 Specific to this application, the development is for 230 new residential units on the site, to be occupied by persons of 50yrs of age and over. A development of this scale will clearly place extra demands on local services and facilities and it is important to ensure that this development can be assimilated within the local community. As such, suitable financial contributions to make the development acceptable in planning terms should be sought in line with the relevant policies of the Maidstone Local Plan (2017), if the application were to be approved.
- 7.69 The relevant statutory providers have been consulted on this development, and they have confirmed that their financial requests are CIL compliant:
- 7.70 The KCC Economic Development Team has requested the following:
- *Primary education*: £764,520 towards expansion of Harrietsham Primary School
  - *Secondary education*: £946,450 towards extension of Maplesden Noakes School
  - *Libraries*: £33,272.46 towards improvements at Lenham library to accommodate additional borrowers
  - *Community learning*: £7,060.27 towards additional resources for new learners generated by this development
  - *Youth services*: £1,951.62 towards additional resources for youth service locally at Lenham School
  - *Social Services*: £14,618.80 towards local additional resources and community building improvements

- 7.71 The NHS Primary Care Team has requested a contribution of £193,752 to go towards the refurbishment, reconfiguration and/or extension at the Len Valley Practice (Lenham and Harrietsham Surgeries).
- 7.72 There is no publicly available open space within the site and so the Council's Parks and Open Space Team are seeking an off-site provision contribution, for the development to be in accordance with the Local Plan policy DM19. This financial request totals £362,250.00, to go towards developing, refurbishing, or maintaining existing amenity green space, play facilities, outdoor sports, allotments/community gardens, and natural/semi-natural publicly accessible open space, within a 2 mile radius of the development (which includes areas in Harrietsham and Lenham).
- 7.73 It is considered that the requested contributions relating to the NHS, parks and open space, and economic development (excluding primary and secondary education) do meet the tests of Regulations 122 of the Act and as such should be provided by the applicant if this application were to be approved.
- 7.74 The agent has questioned the figures for the education contributions, as they do not consider this to wholly relate to, or be reasonable for 230 units that are to be occupied by persons over 50yrs old; and it has been suggested that a condition is attached to any potential permission which requires occupants (or at least one occupant per caravan) to be over 50 years old. However, whilst national advice is to take a positive approach to schemes that might address the provision of specialist housing for older people, other than some communal facilities, there is little to suggest that the caravans offer specialist housing for older people. Furthermore, the location is remote and not particularly well suited to provide permanent accommodation for older people. Moreover, as the application is partly retrospective, the condition would not regulate the occupancy of the existing residential caravans or those used unlawfully as residential caravans. The caravan occupants generally own the caravans and pay rent under the Licence Agreement to station the caravan on the plot. The Licence Agreement requires sellers to obtain approval from the Park Owner to a prospective buyer of the caravan (unless a family member) but it does not restrict the onward sale of the caravan to solely persons over 50. If the Park Owner does not purchase the caravan, it appears that it can be sold to persons under 50. It is therefore not clear how the requirement could be lawfully or reasonably imposed on existing or on all future caravan owners. The potential restrictive condition cannot therefore be given other than limited weight. Notwithstanding this, it is also not entirely out of the question that residents may have children, or adopt or foster children, or are/become legal guardians of children; and the agent has failed to acknowledge this. Given that the imposition of an age restriction condition would not pass the 6 tests of when a planning condition should be imposed (as set out in the NPPG), the development should be liable for financial contributions towards primary and secondary education, and in this respect the requested contributions do meet the tests of Regulations 122.
- 7.75 The agent also argues there are significant overlaps between the CIL charging and s106 requirements, and questions whether it is lawful in requesting s106 contributions for the same piece of infrastructure. In response, the Council must ensure that applicants are not charged twice for the same infrastructure, and this is done by clearly stating on an infrastructure list how things are to be funded. The IDP also assists the Council in identifying where the infrastructure contributions will be coming from. In this instance, the IDP does not provide clarification on this point and therefore reliance is made on the CIL 123 list. This confirms that the above contributions can be sought by S106. The applicants argument is therefore not accepted.

- 7.76 To clarify, the agent has not presented an analysis or counter-offer to the CIL compliant financial requests, and they have not submitted a legal mechanism to secure any planning obligations to mitigate the development's impact. Based on the impact to the landscape character, and the inability to mitigate/compensate for this, further negotiations on acceptable contributions have not been progressed. If Members were minded to approve the application, a resolution on the appropriate contribution which met the 122 test would need to be negotiated.

#### **Affordable housing provision**

- 7.77 The Housing Manager for the Council has reviewed the agent's response with respect to affordable housing provision, and their comments will be set out below.
- 7.78 The agent states that the Council will seek provision of 20% affordable housing for schemes that provide for retirement housing and/or extra care homes. It appears they are classing this development as a retirement housing scheme and therefore take the view that 20% affordable housing should be provided. Firstly, this development is not considered to be a retirement housing scheme in the strictest sense. Such housing developments are similar to sheltered housing, but built for sale, usually on a leasehold basis, where all the other residents are older people (usually over 55). Properties in most schemes are designed to make life a little easier for older people - with features like raised electric sockets, lowered worktops, walk-in showers, and so on. Some will usually be designed to accommodate wheelchair users; and are usually linked to an emergency alarm service (sometimes called 'community alarm service') to call help if needed. Many schemes also have their own 'manager' or 'warden', either living on-site or nearby, whose job it is to manage the scheme and help arrange any services residents need. Managed schemes will also usually have some shared or communal facilities such as a lounge for residents to meet, a laundry, guest accommodation etc. It is appreciated that this is not a bricks and mortar scheme, but there appears to be limited or no such facilities/services of this nature offered to the occupants on site. There is also no presumption that all occupants on the site are retired.
- 7.79 The agent notes that in exceptional circumstances the Council will consider off-site contributions towards affordable housing where on-site provision is not feasible. The Housing Manager remains of the view that a registered provider would be reluctant to take on permanent residential caravans as affordable housing. This means a non-registered provider (who would not be regulated) would probably be required to manage the caravans which gives cause for concern. This application raises a number of management concerns and queries for the Housing Manager, such as licence/site fees and the length of licence (it is understand owners would pay a licence fee for the siting of the caravan which may be moved within the site at the site owners discretion), and security of tenure etc. Furthermore, no information has been provided regarding the specific management arrangements in this respect. Given the above, the Housing Manager considers the most appropriate way to deal with affordable housing provision would be by way of an off-site contribution.
- 7.80 So if the application were to be approved, the development should provide 40% affordable housing provision, in compliance with adopted Local Plan policy SP20. A commuted sum towards an off-site contribution has been calculated at £8,070,274. No counter offer or analysis of this figure has been submitted by the agent.
- 7.81 The agent is also proposing that the 'affordable caravans' would fall under the NPPF definition for Discounted Market Sale housing which is that sold at a discount of at least 20% below local market value. Eligibility for this is determined with regard to local incomes and local house prices; and that provisions should be in place to

ensure housing remains at a discount for future eligible households. No evidence has been submitted to demonstrate that there are the relevant eligibility mechanisms in place (for now or the future) for Pilgrims Retreat.

- 7.82 The agent states that they have assessed the local housing market and the value of the properties (2-bed bungalows) in comparison to the price of a new park home site based on market sales at the site. This demonstrating that the site is affordable and is at least 25% lower in price than the market value for new build properties. As such, the agent considers the park homes meet the definition for discounted market sales housing, being sold at a discount of at least 20% below local market value. No evidence of the above market sales comparisons has been submitted and the Housing Manager does not consider this development to be classed as discounted market sale housing.
- 7.83 The principle behind this type of affordable housing is that the market value of the actual property itself is given a 20% discount, not that it can be demonstrated that the market value of the property is 20% or more lower than comparable properties within the local area. The price of a caravan is the price of a caravan. Without seeing the comparable evidence, the Housing Manager is also of the view that it is not a fair comparison for the market value of these caravans to be compared against the local market value of 2-bed new-build properties.
- 7.84 The agent also proposes that the caravans will remain affordable in perpetuity since the market will preserve them at a discounted price given the more restrictive nature of ownership suppressing prices, with provision within the s106 to ensure they remain affordable and discounted in perpetuity. Furthermore, the agent has suggested attaching an age occupancy restricted planning condition to ensure that the proposal is providing permanent accommodation for older persons. However (as previously established) it is not reasonable to impose such a condition, and in any case the Housing Manager considers this alone does not make the development acceptable with respect to the affordable housing proposal for this application given the above concerns. Notwithstanding the above, the proposal has no affordable rented provision proposed which is contrary to being a policy compliant scheme.
- 7.85 In summary, the submitted details state that the development will provide accommodation for older people in homes which are affordable in relation to the wider housing market in locality. Meeting the housing need for older people is not only identified by the National Planning Guidance to be critical, but also meets the objectives of the Housing Act, the SHMA and the Local Plan. In addition, the number of older people is expected to increase in the future and the Council does need to consider providing opportunities for households to downsize and allow larger properties to be made available for younger families with children. However, the Housing Manager does not consider this development will provide a better choice of specialist accommodation for a group of older people with specific needs, that purpose built accommodation for the elderly would provide. It is also not considered that the development should be considered as retirement housing or Discounted Market Sale housing, and the management arrangement for the caravans remains a cause for concern. As such, the Housing Manager does not consider the development to fully accord with affordable housing policy and should not therefore be given substantial weight in the overall assessment of this application.

#### **Other considerations**

- 7.86 The Environmental Protection Team has raised no objections to the development in terms of noise; air quality; and land contamination, and so no further details are required in these respects.

- 7.87 Kent Police have no comments to make from a *Crime Prevention Through Environmental Design* aspect. Whilst they note some residents are concerned about emergency vehicle access, the Highways Authority has not raised this as an issue and this issue will not be pursued under this planning application.

### **Human rights and Equality Act**

- 7.88 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, states everyone has the right to respect for (amongst other things) his private and family life, and his home. Refusing this application could be interpreted as an interference with the rights of the property owners to use their property as they see fit and the right to private and family life as set out in Article 8. It could also be seen as interference with owners' property rights under article 1, protocol 1. Such interference is permitted by the European Convention if it is in the general interest, but the interference must be 'proportionate', which means that it must not be in excess of what is needed to prevent harm to the general interest. Whether any actual interference ensues would ultimately be an enforcement matter. However, any interference with those human rights should be in accordance with the law and necessary in a democratic society, applying the principle of proportionality. If homes are lost then it is considered that the cumulative harms that would result from the application would be such that refusal of permission is a necessary and proportionate response.
- 7.89 The Council must also have regard to its public sector equality duty (PSED) under s149 of the Equalities Act. The duty is to have due regard to the need (in discharging its functions) to:
- *Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.*
  - *Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing, minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).*
  - *Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.*
- 7.90 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is considered that although the majority of occupants on site are older persons, the equality duty is not sufficiently weighty to sway the planning balance towards granting permission for the proposed scheme.

## **8.0 CONCLUSION**

- 8.01 It is a matter of fact and planning judgement that the development would add 230 isolated homes in the countryside; and occupants on the site are/will be heavily reliant on the private car for their day to day living, making the site unsustainable in terms of location. The Highways Officer also considers the development does not meet the objectives of promoting sustainable transport, as set out in paragraphs 102 and 103 of the NPPF; and the application has failed to demonstrate that the residual cumulative vehicle movements associated to 230 new residential homes on this site would not have a severe impact on the local road network. This weighs against the development.
- 8.02 The development will not conserve and enhance the landscape and scenic beauty of the Kent Downs AONB; and it would not positively recognise the intrinsic character and beauty of the countryside hereabouts. The adverse impact upon

- this nationally designated landscape of the highest value weighs against this development.
- 8.03 The development has and will result in permanent tree loss on a scale that is harmful to the amenity of park home users and the wider landscape; and there is insufficient space to be able to provide appropriate mitigation planting to help screen and integrate the development into the surrounding countryside. This weighs against the development.
- 8.04 The part retrospective application has failed to demonstrate that surface water and sewage disposal can be dealt with appropriately on the site; and it is evident that the development is likely to create a requirement for new and/or improved surface water and sewage disposal infrastructure. As such, the development has failed to demonstrate that the site has sufficient infrastructure capacity available either now or in the immediate future, and this raises a health and safety risk for occupants of the site.
- 8.05 There are no specific objections raised to the development in terms of its biodiversity impact; and the proposed enhancements, whilst not completely mitigating for the loss of the woodland, would be of some benefit in this regard. This is considered to be neutral matter, neither weighing against or in favour of the development.
- 8.06 There are no specific objections raised to the development in terms of its impact upon Ancient Woodland; and if minded to approve this application, suitable conditions could be imposed to secure an appropriate management plan of the Ancient Woodland in the ownership of the applicant, to minimise impacts from the proposed development. This is considered to be neutral matter, neither weighing against or in favour of the development.
- 8.07 The requested financial contributions relating to the NHS, parks and open space, and economic development are considered to meet the tests of Regulations 122 of the Act and as such should be provided by the applicant if this application were to be approved. The agent has not submitted a legal mechanism to secure these planning obligations to mitigate the development's impact, and this weighs against the development.
- 8.08 The development is not considered to provide for retirement housing and/or extra care homes, or Discounted Market Sale housing, in planning policy terms; and the Housing Manager considers the most appropriate way to deal with affordable housing provision to be by way of an off-site contribution. The agent has not submitted a legal mechanism to secure off-site affordable housing provision to help mitigate the development's impact, and this weighs against the development.
- 8.09 No specific objections have been raised against the development in terms of noise; air quality; land contamination; and crime prevention. These are considered to be neutral matters, neither weighing against or in favour of the development.
- 8.10 Whilst the proposed scheme would increase the supply of homes and would provide an additional choice to bricks and mortar homes, the Council is in a position where it can demonstrate a 6.3yrs worth of housing land supply as from April 2019. Only moderate weight should be attached to the increased supply and choice of a home.
- 8.11 The issue of intentional unauthorised development is a material consideration in the determination of this appeal, and this does weigh against the development.

- 8.12 Specific to this development, human rights are qualified rights, and so there needs to be a balance between the rights of the residents and the rights of the wider community. In this case, the interference would be due to pursuing the legitimate aim of protecting the countryside in a nationally designated AONB; and it is considered that the recommendation in this report would not have a disproportionate impact upon any protected characteristic in terms of the Equality Act. To quantify further, this is a part retrospective application whereby some 193 protected persons are already living permanently on site. In purely planning terms, purchasers of the caravans should have been aware that the lawful position on the site was for 18 permanent and 180 tourist accommodation units; and that the site licence at that time set out the licensing conditions on the site. It should also be pointed out that this recommendation does not commit the Council to any particular course of action, it only assesses the merits of the application against established development plan policies.
- 8.13 The proposed scheme constitutes “major development” in terms of paragraph 172 of the NPPF. Great weight must be given to conserve and enhance this landscape of scenic beauty. It is not simply a matter of weighing all the material considerations in a balance, but to refuse this application unless satisfied that (i) there are exceptional circumstances, and (ii) it is demonstrated that, despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest. In terms of the assessments referred to in paragraph 172 of the NPPF, the need for the development is not so great that it could be concluded that it is in the public interest to grant it, or that it would be particularly exceptional. The impact on the local economy if it is refused would not be significantly harmful. The Local Plan has addressed housing need outside the AONB and the housing supply continues to be healthy. There would be detrimental effects on the environment and on the landscape which could not be adequately moderated. Overall there are no exception circumstances for allowing the development and it has not been demonstrated that it would be in the public interest. For the reasons outlined, and on this basis, a recommendation of refusal is therefore made.

**9.0 RECOMMENDATION:** REFUSE for the following reasons:

1. The development, by virtue of the site’s extension and the level of engineering works undertaken to create terracing, hardstanding, and retaining walls within the southern section of the site; the loss (and further potential loss) of woodland and protected trees; the inadequate and inappropriate mitigation planting proposed; the addition of 50 more static caravans; and the increased light pollution resulting from more static caravans that are occupied permanently, fails to conserve and enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, as well as the intrinsic character and beauty of the countryside hereabouts. The adverse impact upon this nationally designated landscape of the highest value is contrary to policies SS1, SP17, DM1, DM3 and DM30 of the Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment (March 2012 amended July 2013) and 2012 Supplement; the National Planning Policy Framework; and the Kent Downs AONB Management Plan (2014-19) and its Landscape Design Handbook.
2. The development is considered to be a major development in the Kent Downs Area of Outstanding Natural Beauty, and there are no exceptional circumstances to permit this development, and it has not been demonstrated that the development is in the public interest. The development is therefore contrary to paragraph 172 of the National Planning Policy Framework.

3. The development would authorise 230 residential units in an isolated location that would also have poor access to public transport and be remote from local services and facilities, resulting in occupants being reliant on the private motor vehicle to travel to settlements to access day to day needs. In the absence of any overriding justification or need for the development demonstrated in the application, this is contrary to the aims of sustainable development as set out in policies SS1, SP17 and DM1 of the Maidstone Local Plan (2017) and the National Planning Policy Framework (2019).
4. The application has failed to demonstrate that the residual cumulative vehicle movements associated to 230 new residential homes on this site would not have a severe impact on the local road network. This is contrary to policies DM1 and DM30 of the Maidstone Local Plan (2017) and the National Planning Policy Framework (2019).
5. The application has failed to demonstrate that the site can provide adequate provisions for foul and surface water disposal for 248 residential units, posing a health and safety risk to the occupants of the site. This is contrary to Local Plan policy ID1, and the National Planning Policy Framework (2019).
6. In the absence of an appropriate legal mechanism to secure necessary contributions towards community infrastructure in the borough, the impact of the development would place unacceptable demands on local services and facilities. This would be contrary to Local Plan policies SS1, ID1 and DM19 of the Maidstone Local Plan (2017); and the National Planning Policy Framework (2019).
7. In the absence of an appropriate legal mechanism to secure affordable housing provision, the development would fail to contribute to the proven significant need for affordable housing in the borough. This would be contrary to Local Plan policies SS1, SP20, and ID1 of the Maidstone Local Plan (2017); and the National Planning Policy Framework (2019).

Case Officer: Kathryn Altieri



## The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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MAIDSTONE B.C.  
SECRETARIES DIVISION  
RECEIVED

27 JUN 1997

P/H/CT

Your Reference:  
JR/mjs/21045  
Council Reference:  
G77/E/989, 414/02/115/2502 &  
MA/96/1132N  
Our Reference:  
T/APP/C/96/U2235/643713-4  
T/APP/U2235/A/96/273772/P6

Date:

26 JUN 1997

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 AND 174 AND SCHEDULE 6  
PLANNING AND COMPENSATION ACT 1991  
APPEALS BY ARTHUR FITT LEISURE GROUP  
LAND AT HOGBARN CARAVAN PARK, HOGBARN LANE, HARRIETSHAM**

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeals against two enforcement notices issued by the Maidstone Borough Council and a refusal of planning permission by the same council, both concerning the above mentioned land. I held an inquiry into the appeals on 15 and 16 April 1997. The evidence as to fact given by Mr Gannon and Mr Jarvis was taken on oath.

2. Both the notices were issued on 14 June 1996.

**Notice A**

- The breach of planning control as alleged in the notice is:
  - (1) The excavation, levelling and grading of the land,
  - (2) The laying of a tarmac chipping trackway,
  - (3) The installation of electrical services including lighting and caravan power connection points, and
  - (4) The erection of a toilet block and waste bin area.
- There are 5 requirements of the notice which, together, require the regrading of the levelled areas to their previous contours and the removal of the trackway, electrical services, toilet block and waste bin area. Finally, the notice requires the establishment of a specified type of woodland. The council, however, no longer wish to pursue that particular requirement.
- The periods for compliance with these requirements are three months and, in respect of the replanting requirement, the end of the next planting season.





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MAIDSTONE BOROUGH  
SECRETARIAT'S DIVISION  
RECORDED

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- The periods for compliance with these requirements are three months and, in respect of the replanting requirement, the end of the next planting season.



#### Notice B

- The breach of planning control as alleged in the notice is the change of use of the land to use as a caravan site.
  - The requirements of the notice are to stop using the land as a caravan site and to excavate and remove all electrical services, fittings and fixtures from the land.
  - The period for compliance with these requirements is one month.
3. The appeals were made against Notice A on grounds (a), (d) and (f), and against Notice B on grounds (a) and (c), as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991. Prior to the inquiry ground (c) was withdrawn in respect of Notice B.

#### The appeal made under section 78

4. The development for which the Council has refused planning permission is use of the land for the siting of 180 holiday caravans and 18 residential caravans. The application site consists of the existing caravan park and land to the south-east. The land to the south-east is subject to the enforcement notices.

#### The sites of the appeals

5. The approximately 5.26 hectares (13 acres) caravan site, permitted in 1967, is in a relatively isolated rural location to the north of the crest of the North Downs escarpment. The permission limits the number of residential caravans to 18 and holiday caravans to 180 and the use to the period 1 March to 31 October in any year. A later permission authorises 30 pitches for tented camping. The site is provided with amenity rooms with licensed club and restaurant, play areas and a covered swimming pool as well as the normal facilities and site manager's accommodation. The permitted site is operated, as a matter of management choice, on the basis of 2 residential caravans, 167 caravan pitches and space for some tents. The tent area could hold 6 large frame tents or more smaller tents.

6. The area of the enforcement notices, about 3 ha (7.41 acres), is the steeply sloping side of a dry valley covered in mainly hawthorn woodland. A surfaced vehicular track has been cut through the woodland from the main caravan park. It links three terraces, each about 20x35 metres, which have been formed by cut and fill within the woodland on the valley side. A mobile toilet block has been sited near the entrance point and a refuse bin stand has been constructed. Three lighting columns and 10 electrical "hook up" upstands have been provided.

#### Matters concerning the notices

7. At the start of the inquiry I raised the question of the effect of s173(11) since it appeared to me that, bearing in mind the judgement in *Murfit v SSE & E Cambridgeshire DC* [1980] JPL 598 a notice alleging a material change of use could require works to be removed, provided they formed an integral part of the breach of planning control complained of. Indeed Notice B, as issued, included the removal of an item of operational development, which is also covered by Notice A, in its requirements. To the extent that Notice B under enforces by not requiring the removal of all the elements of operational development which had facilitated and formed an integral part of the change of use, it is arguable that s173(11) would have the effect of giving them planning permission. The two notices are not on all fours with the two notices in *Millen v SSE & Maidstone BC* [1996] JPL 735 but the implications are similar. The effect of s173(11) on Notice B could be to cancel out Notice A, other than to the extent of the limited operational development requirement in Notice B.

8. The council say that the matter can be put right by removing all reference to operational development in the requirements of Notice B, thus putting all operational development matters into

one notice and the change of use into the other. However, that does not overcome the *Millen* point unless it can be shown that the operational development did not form an integral part of the change of use and thus *Murfit* does not apply.

9. You say that the operational development was carried out to facilitate a use which did not require planning permission since it was permitted development. The use which does require permission, the caravan site use in Notice B, came along later. The discovery that there had been a use beyond permitted development rights (Class B Part 4 and Class A Part 5 of the 1988 GDO) caused the withdrawal of the ground (c) appeal. As a result of that withdrawal evidence of the claimed permitted development use was not explored at the inquiry; the point was only made in closing in responding to the *Millen/Murfit* point. Both the permitted development rights referred to (rallies by exempted organisations lasting up to 5 days and tent camping) relate to essentially temporary uses of land. The operational development was carried out to provide a permanently available facility as an extension to the permitted caravan site, even though it may have been used by exempted organisations and for tents. Prior to the works being carried out the natural slope of the land made such use impractical. Moreover, access is through the main caravan site and the recreational facilities of the main site were available to those on the extended site. It is my assessment that in making the enforcement notice land permanently available for use by caravans through the alleged operational development the planning unit of the lawful caravan site was extended. A material change of use took place and the operational development facilitated it and was an integral part of it. Looked at another way, the fundamental planning change which has taken place to this area of land is that it has become part of the caravan site use. The operational development is secondary to the use. There is a very clear parallel to *Murfit*, where the operational development of preparing the ground by the laying of hardcore enabled the use for the parking of heavy goods vehicles to take place.

10. I note that in *Millen* the Deputy Judge said that in the very special circumstances of that case the matter was capable of resolution by quashing one notice and varying the requirements of the other. You accept that this falls generally within the scope of s176(1) but in this case consider that to do so would cause injustice to the appellant. It is your client's case that the first terrace and the access to it was substantially completed as a discrete piece of operational development more than 4 years before the notice was issued. If it is immune the local planning authority, through its committee, has not had the opportunity to consider whether they would consider Notice B should be amended or whether they would not wish to take action in recognition of that immunity. There could be no certainty that if the notices were quashed the committee would decide to re-issue one notice in the different format. Thus to amend the notices now does not short circuit an inevitable process.

11. I agree that there can be no certainty how a committee would respond. However, it is clear that the council's case is that the operational development should not be considered separately from the use. In the event of me finding for them on the use they urge that the operational development should not be allowed to remain. At the inquiry the council did not argue that the requirements of Notice A could not or should not be incorporated in Notice B. There is no evidence to suggest that the council would be unlikely to adopt that procedure were the notices to be quashed. This matter has been at large since the start of the inquiry and your client has had ample opportunity to deal with the issue. I recognise that it would deprive the appellant of the ground (d) argument in respect of the operational development but even if that were made out it would not preclude its incorporation into the requirements of Notice B. Moreover, it seems to me to be fundamentally right that operational development which has facilitated and formed an integral part of a change of use should not be able to gain immunity on a different timescale to the use which it has enabled. I do not

consider that it can be legitimately claimed that there would be injustice in the particular circumstances of this case if I were to quash Notice A and import its requirements into Notice B. I shall quash Notice A because of the conflict I have identified; the appeal on grounds (a) and (d) and the deemed application do not need to be considered. My further consideration of the appeals before me will therefore be based on the premise of an all embracing Notice B and be directed to ground (a) on that notice and the s78 appeal. I will also deal with the Notice A ground (f) appeal as if it had been made against the corrected Notice B.

**The s174 appeal against Notice B on ground (a) and the s78 appeal**

12. The main issues are, firstly, the impact of the development on the character and appearance of the countryside in the locality, bearing in mind that it is within the AONB and having particular regard to development plan policies concerning the protection of the countryside and those concerning tourism. The second issue is the impact on the access road leading to the site in environmental and road safety terms.

13. I deal with the second issue first since its resolution helps to throw the first issue into sharper focus. Access to the site from the A20, and hence the main M20/A20 tourist corridor through the county, is by a narrow and winding country lane which climbs the steep scarp slope of the North Downs. It is ill-suited to carry cars towing caravans or camping trailers. In many places de facto passing bays have been created by erosion of the verge, such is the road's restricted width. A caravan site was permitted here in the 1960s but I am in no doubt that such a proposal, were it made now, would be rejected on highway grounds. I also consider the deficiencies of the access road are so severe that a material increase in traffic generation from the appeal site would cause an unacceptable traffic hazard. However, the site can be lawfully used up to the permitted maximum of 198 caravans and 30 tents regardless of the highway implications.

14. The site is presently operated, as a matter of company policy, on the basis of 168 caravans and some tents<sup>1</sup>, substantially less than the lawful level of use. I am satisfied from the plan presented to the inquiry and from what I saw at the site that the existing site is physically capable of taking a further 25 caravans and possibly a few more. I take this view notwithstanding the fact that some of the original site area has been effectively lost to built development. No doubt the site would not be so attractive to its existing visitors, many of whom, I understand, are repeat visitors, if it were to lose some of its spaciousness. You felt that it was possible that there could be some slight increase without undermining the current company policy of providing quality pitches on the site. But even if that is not right, company policy could change, or the site ownership could change and a more down market operator could seek to exploit the existing permission and licence to the full. In your experience a lot of companies would do just that.

15. If permission is given to the area covered by the enforcement notice your client would accept a condition relating to the whole of the enlarged site to limit the number to 198 units, including tents. This represents an increase in number of about 25 pitches above the present use but substantially less than the permitted use if the 30 permitted tents are taken into account. Thus to allow this appeal would not increase the potential traffic generation above that which could result from the lawful use of the existing site. It is significant that no formal objection was raised by the council's highway advisor and the council's highway case at the inquiry was put by their planning witness in general terms.

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<sup>1</sup> See paragraph 5 above.

16. From the company's evidence of a full park throughout the 1996 six week summer season and that bookings had to be declined and customers turned away, and from your own experience of the industry, I consider it is probable that without the appeal site the company would be likely to go some way to meeting this demand on the existing site within the terms of the permission and licence. I think it unlikely, based on current policy, that they would risk the character of the site by accommodating the full 25 pitches, but in the longer term a different operator with different objectives is a clear possibility. I do not find the council's case a cogent argument for concluding that this outcome is less rather than more likely; it is a real possibility. Therefore, I conclude that there is no sustainable argument that a limited permission would cause an unacceptable hazard to road safety or lead to unacceptable environmental harm to the countryside through increased traffic.

17. The development plan comprises the 1996 Kent Structure Plan and the 1993 Maidstone Borough Local Plan. Development which adversely affects the countryside is to be resisted; the countryside, especially in the AONB, is to be conserved and enhanced. This is the thrust of KSP policies S2, ENV1, 2 and 3. Policy ENV7 indicates that it is also policy to maintain tree cover in the county. The few exceptions provided for in those policies, for example to meet the social and economic requirements of local communities, do not relate to the appeal proposal. Tourism is an important element of strategic policy and the availability of high quality facilities in an attractive environment is seen as critically important. Policy TO1 is to normally permit new tourism facilities where they make an important contribution to upgrading the tourism attractions of the county provided they are consistent with environmental policies and designed in sympathy with the landscape and setting. Again, provided there is consistency with environmental policies, proposals for the development of touring and camping facilities will normally be permitted where they are well related to the primary transport network and either the ports of entry, the Channel Tunnel terminal or major visitor attractions.

18. The adopted local plan supports the countryside conservation policies in its strategic counterpart. The balance between meeting the needs of tourism and the conservation of the countryside is also recognised. Policy C1 specifically indicates that within the rural area one of the allowable types of development is that relating to tourist accommodation as indicated in policies RT28-31. Under policy RT31 the council will give favourable consideration to caravan proposals provided they have adequate access, are well screened and would not prejudice the landscape quality of their setting, would not have an unacceptable environmental effect and would not conflict with other policies.

19. Both parties agree that this is the sort of case where the principle of what is proposed finds support in the tourism policies of the development plan and where it is necessary to strike a balance between that and the impact on the countryside. I share the council's view that the impact is not simply a visual impact but is a wider one which goes to overall countryside character. Having said that I shall address the visual impact first since that is the main impact.

20. The enforcement notice appeal site is, apart from the cleared areas, covered in a fairly dense hawthorn thicket some 4 to 5 metres high. The only significant public view of the area is from the public footpath to the south and a nearby lane. From here the thicket appears as an extension of adjoining woodland. Caravans on the first terrace would be visible from a relatively short length of the footpath, and a point on the lane to the south, through a gap in the thicket but caravans on the other terraces would not be seen. The first and third lamp posts are also visible from the footpath. This is a very sensitive area of landscape that has already suffered visual damage through the existing caravan site which, because of the topography, is prominent over the south-western boundary planting

in views from the footpath. Given the important planning objective of conserving the landscape in the AONB I consider that any material increase in the visual prominence of this caravan site would be unacceptable.

21. However, your client, on the advice of his landscape architect, proposes certain works of mitigation. It is proposed to replace the lamp standards with 1.0-1.5m high bollard lighting with louvred directional light units. In the day they would not be visible from outside the site and at night the impact would be minimal. I recognise that light pollution in the countryside can lead to a loss of the sense of isolation and rurality but in this case, given the presence of the existing site and limited views, and provided suitable luminaires are chosen, I consider the impact would be negligible. The toilet block, although not visible from outside the site is to be removed. In addition to additional planting on the newly cut slopes a 10m deep block of hawthorn planting, reinforced with oak, would fill the gap through which the first terrace can be seen. A line of ash on the field boundary would provide screening in depth. These seem to me to be well thought out proposals and I see no reason to dispute the landscape architect's conclusion that they would provide an effective screen in about five years time. Your client is prepared to accept a condition that the first terrace shall not be used for the siting of touring caravans until the council are satisfied that there is an effective screen. The combined effect would be that the development would not be visible to the public outside the site.

22. Even so, the loss of tree cover, albeit naturally regenerated hawthorn thicket; the reshaping of a natural landform, albeit a common enough feature; the loss of a particular habitat, albeit not of recognised local or statutory significance; and the concept of protecting the countryside for its own sake from the development of fresh land, are other matters which tell against the development. I also recognise that development in the countryside is not made acceptable just because it cannot be seen; it could be repeated too often, albeit that proposals to extend existing caravan sites are unlikely to arise frequently. However, when I set these considerations in the context of no increase in the permitted level of use, no material visual impact and the policy support for tourism – in particular policy RT31 with which there is no conflict – I find that the impact is not so harmful as to justify a refusal of planning permission. Some local residents fear an increase in noise disturbance but given that the extension would be no nearer to dwellings than the existing site I do not consider that objection can be substantiated.

23. There are two other aspects raised by the council. Firstly, if this extension is agreed where do extensions stop on this site, and, secondly, the impact of this extension should be compared with the impact of expanding within the existing site to the lawful level of use. On the first issue there is a very clear restriction on the creation of a fourth or fifth terrace. Immediately adjacent to the third terrace there is a large dene hole which would limit further physical expansion. Of greater significance, however, is the numbers limit I intend to impose through condition. It is clear from my reasoning above that I have been substantially influenced by the fact that there will be no increase in overall intensity beyond permitted levels; indeed, there is the small planning gain of a reduction when tents are taken into account. I am satisfied that the site is already at its limit in terms of numbers and there was no evidence to show where further physical extensions which would not harm the landscape could take place.

24. I am not convinced that the appellants need to show that more harm would flow from accommodating the lawful level of use within the existing site, provided it can be shown that the extension would not cause unacceptable harm. Nevertheless I consider that the change to the character of this small area of countryside, referred to in paragraph 22, which would not occur if the additional pitches were accommodated within the existing site is outweighed by the benefit to tourists

through maintaining the quality of the caravan site. KSP policy TO1 and the written statement recognise the benefits of upgrading tourist facilities and achieving high standards. A move in the opposite direction would run counter to that policy objective.

25. I now turn to consider the conditions which should be attached to the planning permission I intend to grant. I have already justified the limitation on numbers, the restriction on use of part of the enforcement notice land, the lighting scheme and the landscaping. Removal of the toilet block, as built development on the appeal site, is offered and would be appropriate. Seasonal use, which already applies, needs to be re-imposed. Careful control over the use of the whole site and adjoining land within the control of the appellant is necessary because of the sensitive location and your client would accept removal of Part 4 and 5 permitted development rights. Your client offers a limitation to a maximum of 25 touring caravans on the notice land and I agree that it is a desirable safeguard.

26. The council seek a thickening of the 2m planting belt on the south-western boundary of the existing site to 3m. Your client considers that an unreasonable loss of amenity land adjoining existing caravans, bearing in mind that the existing planting is now maturing. I looked at this belt at my site visit from close to and from the public footpath in terms of potential screening. It seemed to me that it would benefit from improved management and some replacement planting as much as it would from an additional metre of planting. Because that belt is largely on lower land than much of the site many of the caravans are likely to remain visible from the footpath over the top of the planting for some considerable time regardless of the depth of planting. I am not convinced that an additional metre of planting would be so significant that it can be justified in the context of these appeals.

27. The appeal on ground (a) succeeds and permission will be given on the deemed application and on the section 78 appeal. The enforcement notice will be quashed. The appeal on ground (f) does not therefore need to be considered.

28. In reaching my conclusions on all these appeals I have taken into account all the matters raised in the representations but none outweighs the considerations which have led to my decisions.

#### FORMAL DECISIONS

29. For the above reasons, and in exercise of the powers transferred to me, I determine these appeals as follows:

**The appeal under S174 against Notice A [Department's Reference T/APPC/96/U2235/643713]**  
I direct that the enforcement notice be quashed.

**The appeal under S174 against Notice B [Department's Reference T/APPC/96/U2235/643714]**  
I allow your client's appeal and direct that the enforcement notice be quashed. I hereby grant planning permission on the application deemed to have been made under S177(5) of the amended Act for the development already carried out, namely the use of the land at Hogbarn Caravan Site, Hogbarn Lane, Harrietsham, as shown on the plan attached to the notice, for use as a caravan site subject to the following conditions:

1. The combined areas shown edged red and edged and hatched red ("the site") on the plan submitted with planning application reference MA/96/1132 dated 23/08/96 ("the plan") shall be used for a maximum of 18 residential caravans plus holiday units comprising static

- caravans, touring caravans and tents, subject to the number of such holiday units not exceeding a total of 180.
2. The site shall not be open to touring caravans and tents, and static caravans shall not be occupied, between 1 November in any one year and 28 February in the succeeding year.
  3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no caravan or camping development permitted by Article 3(1) and Parts 4 and 5 of Schedule 2 of that Order shall take place on the site or the area edged blue on the plan.
  4. Within the area hatched and edged red on the plan only touring caravans shall be sited, with a maximum number of 25 at any one time, and, subject to condition 5, only those areas which have already been cleared and levelled shall be so used.
  5. The most western of the three cleared and levelled areas within the area hatched and edged red on the plan shall not be used for the siting of touring caravans until the local planning authority have indicated in writing their satisfaction that the planting required under condition 6 has matured sufficiently for the presence of caravans on that part of the site to be no longer visible from the public footpath to the south of the site.
  6. The use hereby permitted shall cease within 28 days of any one of the following requirements not being met:
    - (i) within 3 months of the date of this letter there shall have been submitted for the approval of the local planning authority a scheme for the provision and management of landscaping and for replacement lighting within the area hatched and edged red on the plan and for additional planting within and future management of the existing landscaping strip on the western boundary of the area edged red on the plan (hereafter referred to as a landscaping scheme) and the said scheme shall include a timetable for its implementation.
    - (ii) within 11 months of the date of this letter a landscaping scheme shall have been approved by the local planning authority or, if the local planning authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted by the Secretary of State for the Environment.
    - (iii) in the event of an appeal being made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
    - (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme.
  7. In the event of the use ceasing by virtue of condition 6, the following actions shall be taken on the land edged and hatched red on the plan within three months of the use ceasing:
    - (i) excavate the levelled areas and regrade the land to that previously existing to match the surrounding slope and levels;
    - (ii) excavate the trackway and remove all resultant materials from the land; and
    - (iii) excavate and remove all electrical services, fittings and fixtures.
  8. The existing mobile toilet block sited within the area hatched and edged red on the plan shall be removed within one month of this decision.

The appeal under S78 (Department's Reference T/APPA/2235/A/96/273772/P6)

I hereby allow your client's appeal and grant planning permission for the use of the land for the siting of 180 holiday caravans and 18 residential caravans in accordance with the terms of the application (No. MA/96/1132) dated 23/08/96 and the plans submitted therewith, subject to conditions identical to those set out above.

30. These decisions do not convey any approval or consent required under any enactment, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

**RIGHTS OF APPEAL AGAINST DECISIONS**

31. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal against my decisions to the High Court are enclosed for those concerned.

Yours faithfully



A D KIRBY RD\* MA MSc FRTPI FRSA  
Inspector

ENC



Directorate of Change, Planning and the Environment  
Maidstone House, King Street, Maidstone, ME15 6JQ

#### DEVELOPMENT CONTROL

Mr Mark Southerton  
Springfield  
Gawtersyke  
Kirbymoorside  
North Yorkshire  
YO62 6DR

My Ref: MA/13/1435  
Date: 31 October 2013

#### TOWN AND COUNTRY PLANNING ACTS

**Town and Country Planning (General Permitted Development) Order 1995**  
**Town and Country Planning (Development Management Procedure) (England) Order 2010**

**TAKE NOTICE** that **THE MAIDSTONE BOROUGH COUNCIL**, The Local Planning Authority under the Town and Country Planning Acts, has **GRANTED PLANNING PERMISSION** in accordance with the details set out below:

APPLICATION: MA/13/1435

DATE RECEIVED: 16 August 2013      DATE VALID: 16 August 2013

APPLICANT: Sines LLP

PROPOSAL: Application to vary condition 4 of MA/96/1132 to allow an expansion of the area used for siting static caravans and operational development to alter land levels (partly retrospective and resubmission of MA/13/0724) as shown on A4 site location plan and drawing nos. PR102a (cross section), PR102a (existing contours), and PR103b received on 16th August 2013, and PR101c received on 21st October 2013.

LOCATION: PILGRIMS RETREAT, HOGBARN LANE, HARRIETSHAM, MAIDSTONE, KENT, ME17 1NZ

GRID REF: 588508, 154893

This permission is **SUBJECT** to the following conditions:

1. Within 2 months the following details shall be submitted to and approved in writing by the Local Planning Authority:-

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Continuation of decision: MA/13/1435

- a) Full and specific details of all proposed trees and hedgerows including locations, species mix and sizes, and a plan clearly showing all existing trees as being retained.
- b) Cross section plans to show the re-grading of the land in the southern corner of the site where the sewage plant access and woodland area is shown.
- c) Full details of the wildflower and grass mix.
- d) Planting and staking details for the proposed selected heavy standard trees.
- e) Details of the type of weeding to be used around the newly planted trees (e.g. cultural, mechanical or chemical) together with a full maintenance programme specifying watering and weeding and replacement of failed stock.
- f) Details of tree protection around the existing retained trees in accordance with BS5837:2012.
- g) Measures for protection of the landscaping scheme during the course of development and a programme for the approved scheme's implementation and long term management.

The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: To ensure a satisfactory appearance to the development.

2. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the implementation plan approved under condition 1. Any trees or plants which within a period of five years from the completion of the development die, 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;

Reason: To ensure a satisfactory setting and external appearance to the development.

3. Prior to the occupation of any of these units full details of the future management of the retained coppice to the east of the development site and how the area is to be used as amenity for the local residents shall be submitted to and approved in writing by the Local Planning Authority and the development

**IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**

Continuation of decision: MA/13/1435

shall be undertaken in accordance with the approved details;

Reason: No such details have been submitted and to ensure the woodland is appropriately maintained.

4. All accommodation units permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. The development hereby permitted shall be carried out in accordance with the following approved plans:

A4 site location plan and drawing nos. PR102a (cross section), PR102a (existing contours), and PR103b received on 16th August 2013, and PR101c received on 21st October 2013.

Reason: To ensure a satisfactory setting and external appearance to the development.

Informatives set out below

With regard to condition 1 (landscape implementation), the Council would expect at least the woodland area with specimen trees within the south corner of the site to be implemented within the current planting season (by the end of February 2014).

This application has been considered in relation to the following policies:

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV33, ENV34, ED20

South East Plan 2009: N/A

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide

**IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**

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Continuation of decision: MA/13/1435

Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

The application was approved without delay.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Signed

*R. LL Jarman*

Rob Jarman  
Head of Planning

Date 31 October 2013

**IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**

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Continuation of decision: MA/13/1435

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**THIS IS NOT A BUILDING REGULATION APPROVAL**

It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations, where required, and any other necessary approvals, have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.

**TAKE NOTICE** that this decision does not confirm compliance with Section 53 of The County of Kent Act, 1981 and, therefore, it will be incumbent upon the applicant to ensure they comply with the said requirement.

~~~~~

**IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**



**Peter Lead**  
 Planning  
 Consultant

07768 881950  
 peterdawnlead@aol.com

MA/13/1435

21/10/13

- Embankments
- New hedgerows Guelder Rose 10% Hawthorn 70% spindle 10% 10% Buckthorn or Field Maple 85% Holly 15% or Hazel 100% or a combination.
- Plots for 20x40 homes
- Plots for 20x45 homes
- Car parking bay
- Existing trees
- Areas of new tree planting
- Specimen Hawthorn
- Specimen Hornbeam
- Specimen Pendunculat Oak
- New woodland

75



**AMENDED**

PILGRIMS RETREAT HOGBARN LANE  
 HARRIETSHAM MAIDSTONE KENT

Proposed Layout  
 Scale 1:1000 on A3  
 Date 19/10/2013  
 Ref PR101c



Kathryn Altieri  
 Planning and Building Control  
 Maidstone Borough Council

Sent by email to:  
[Planningsupport@midkent.gov.uk](mailto:Planningsupport@midkent.gov.uk)

12 June 2019



Kent Downs AONB Unit  
 West Barn  
 Penstock Hall Farm  
 Canterbury Road  
 East Brabourne  
 Ashford, Kent TN25 5LL  
 Tel: 01303 815170  
 Fax: 01303 815179  
 mail@kentdowns.org.uk  
 www.kentdowns.org.uk

Anglesey  
 Arnside and Silverdale  
 Blackdown Hills  
 Cannock Chase  
 Chichester Harbour  
 Chilterns  
 Clwydian Range  
 Cornwall  
 Cotswolds  
 Gower  
 Cranbourne Chase and  
 West Wiltshire Downs  
 Dedham Vale  
 Dorset  
 East Devon  
 Forest of Bowland  
 Howardian Hills  
 High Weald  
 Isle of Wight  
 Isles of Scilly  
**Kent Downs**  
 Lincolnshire Wolds  
 Llyn  
 Malvern Hills  
 Mendip Hills  
 Nidderdale  
 Norfolk Coast  
 North Devon  
 North Pennines  
 North Wessex Downs  
 Northumberland Coast  
 Quantock Hills  
 Shropshire Hills  
 Solway Coast  
 South Devon  
 Suffolk Coast and  
 Heaths  
 Surrey Hills  
 Tamar Valley  
 Wye Valley

Dear Kathryn

**Application: 19/502469/FULL: Pilgrims Retreat, Hogbarn lane, Harrietsham**

**Retrospective planning application for the change of use of land from mixed uses (leisure 180 caravans) and residential (19 caravans) for a residential park home site comprising 248 caravans, including engineering works to create terracing, retaining walls and the extension of the site along the south eastern boundary.**

Thank you for consulting the AONB Unit on the above application. The following comments are from the Kent Downs AONB Unit and as such are at an officer level and do not necessarily represent the comments of the whole AONB partnership. The legal context of our response and list of AONB guidance is set out as Appendix 1 below.

Pilgrims Retreat lies within the Kent Downs AONB. The application should therefore be tested against the purpose of the AONB designation, to conserve and enhance the natural beauty of the AONB, in line with paragraph 172 of the NPPF and policy SP17 of Maidstone's Local Plan. Under the Countryside and Rights of Way Act, local authorities are required to prepare an AONB Management Plan which must "formulate the policies for the management of the AONB and for carrying out their functions in relation to it". The Kent Downs AONB Unit produces a Management Plan on behalf of the local authorities within the AONB. The Management Plan has been formally adopted by the local authorities in Kent in which the AONB occurs, including Maidstone Borough Council. The national Planning Policy Guidance confirms that Management Plans can be a material consideration in planning decisions and this view is confirmed in previous appeal decisions, including APP/U2235/W/15/3131945, Land west of Ham Lane, Lenham, Maidstone, where at paragraph 48 of the Inspectorate's decision letter it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration".

The Kent Downs AONB Management Plan, Second Revision 2014-2019 can be downloaded at:

<https://s3-eu-west-1.amazonaws.com/explore-kent-bucket/uploads/sites/7/2018/04/18113849/KDAONB-Management-Plan.pdf>

The following policies from the Management Plan are considered to be of particular relevance to the current application:

**Enhancing landscapes and life in the Kent Downs**

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.



**SD1** The need to conserve and enhance the natural beauty of the Kent Downs AONB is recognised as the primary purpose of the designation and given the highest level of protection within statutory and other appropriate planning and development strategies and development control decisions.

**SD2** The local character, qualities and distinctiveness of the Kent Downs AONB will be conserved and enhanced in the design, scale, setting and materials of new development, redevelopment and infrastructure and will be pursued through the application of appropriate design guidance and position statements which are adopted as components of the AONB Management Plan.

**SD3** New development or changes to land use will be opposed where they disregard or run counter to the primary purpose of the Kent Downs AONB.

**SD8** Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB, will be opposed unless they can be satisfactorily mitigated.

**SD7** To retain and improve tranquillity, including the experience of dark skies at night, careful design and the use of new technologies should be used. New developments and highways infrastructure which negatively impact on the local tranquillity of the Kent Downs AONB will be opposed unless they can be satisfactorily mitigated.

**SD9** The particular historic and locally distinctive character of rural settlement and buildings of the Kent Downs AONB will be maintained and strengthened. The use of locally-derived materials for restoration and conservation work will be encouraged. New developments will be expected to apply appropriate design guidance and to be complementary to local character in form, setting, scale, contribution to settlement pattern and choice of materials. This will apply to all development, including road design (pursued through the adoption and implementation of the AONB Rural Streets and Lanes Design handbook), affordable housing, development on farm holdings (pursued through the farmstead design guidance), and rights of way signage.

**LLC1** The protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued.

**WT1** Threats to the existing extent of woodland and transitional habitats around woodland will be resisted. Extension of both habitats types will be supported where appropriate to landscape character. The loss of ancient woodland will be opposed.

**WT7** Activities and developments causing damage to woodlands, such as disease, illegal and harmful recreation, an expanding deer population, poorly managed use for game rearing and development associated with wood lotting, will be addressed by appropriate means. Inappropriate developments subject to planning control will be opposed, other available regulatory mechanisms supported, and positive, strategic management interventions pursued.

The application site lies within the Mid Kent Downs landscape character area as classified in the Landscape Character Assessment of the AONB where one of the overall landscape character objectives is identified as to seek to conserve the small scale of the roads and villages and the remote quality of the countryside and control urban fringe pressures. Within the Mid Kent Downs LCA, the site lies within the Bicknor Local Character Area where specific guidelines include seeking the use of sympathetic local materials such as brick, tile and flint.

Large scale and/or permanent Caravan Parks in the AONB rarely constitutes appropriate development as by reason of the utilitarian design of the caravans, they fail to conserve or enhance the local character, qualities and distinctiveness of the AONB and therefore fail to meet the key requirement of conserving and enhancing landscape and scenic beauty within the

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designated area. This retrospective application, which involves a significant extension in the number and density of caravans at the site, which is in a remote, rural location that is unconnected to existing settlement pattern in the locality, would fail to comply with the guidelines for development in the Mid Kent Downs LCA and would clearly be in conflict with the objectives of the Kent Downs AONB Management Plan as well as national and local plan policies that seek to conserve and enhance the AONB. Harm would be exacerbated by the removal of existing vegetation including trees, remodeling of land levels to form artificial terraces and the construction of a retaining wall, introducing a suburban feature in this rural location. Harm would also arise as a result of an increase in lighting as a result of both an increase in numbers of caravans and also the permanent, rather than temporary occupation of the caravans. The increase in the amount and density of caravans allows little in the way of significant tree planting between the units to help assimilate them into their rural surroundings. The proposed landscape mitigation is considered very meagre and fails to adequately compensate for the substantive harm that would result from the proposal.

The AONB Unit strongly disagrees with the conclusions of the LVIA submitted in support of the proposal. We do not consider the Sensitivity of the site to be 'low to medium' and given the site's location within the nationally designated AONB, on a vegetated valley side that (prior to the works) was entirely in keeping with the identified local landscape character, consider landscape value should be assessed as high. Clearance and leveling of 0.8ha of coppiced valley side with artificially engineered platforms to accommodate an expanded area of permanently stationed caravans does not in our view constitute a 'minor' change to the landscape, nor do we agree that there would be a 'low to medium' magnitude of change to landscape character. It is also considered incorrect to assess a lower impact on landscape character on the basis of a lack of wider visibility of the site. The AONB Unit considers the high sensitivity of the site and a high magnitude of change would give rise to a major adverse (i.e. significant) effect on landscape character. Furthermore, reducing assessed levels of harm on the basis of the small scale of the area affected and visual dissociation with the surrounding area is wholly inappropriate; while the site is relatively contained within the wider landscape and the development may not affect wider long distance views, this is not the sole test for acceptability of development in an AONB. The AONB is a wide and large expanse of area and any development which significantly detracts from elements which contribute to that wider natural and scenic beauty would not conserve or enhance it. The proposal would have a detrimental impact on many of the special characteristics and qualities of the Kent Downs including landform and views, tranquillity (through the introduction of additional lighting), biodiversity rich habitats and woodland and trees – contrary to the conclusion in the LVIA that 'there would only be a very minor impact on very few elements of the special qualities and characteristics of the AONB'.

In conclusion, it is considered that the proposal would weaken the characteristics and qualities of natural beauty and have a significant detrimental impact on landscape character and the proposal disregards the primary purpose of the AONB designation, namely the conservation and enhancement of its natural beauty and would therefore be contrary to both paragraph 172 of the NPPF and policy SP17 of Maidstone's Local Plan.

The Kent Downs AONB Unit therefore objects to this application.

I would be happy to discuss further if this would be helpful.

Yours sincerely



Katie Miller  
Planning Manager, Kent Downs AONB Unit

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## APPENDIX 1

### **Planning consultations with the Kent Downs AONB Unit**

#### **Background and context:**

The Kent Downs Area of Outstanding Natural Beauty partnership (which includes all the local authorities within the AONB) has agreed to have a limited land use planning role. In summary this is to:

- Provide design guidance in partnership with the Local Authorities represented in the AONB.
- Comment on forward/strategic planning issues-for instance Local Development Frameworks.
- Be involved in development management (planning applications) in exceptional circumstances only, for example in terms of scale and precedence.
- Provide informal planning advice/comments on development control (planning applications) at the request of a Kent Downs AONB Joint Advisory member and /or Local Authority Planning Officer.

#### **The Countryside and Rights of Way Act 2000**

The primary legislation relating to AONBs is set out in the Countryside and Rights of Way Act 2000. Section 85 of this Act requires that in exercising any functions in relation to land in an AONB, or so as to affect land in an AONB, relevant authorities, which includes local authorities, shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. This is known as the 'Duty of Regard'. The Duty of Regard can be demonstrated by testing proposals against the policies set out in the Kent Downs AONB Management Plan and its supporting guidance (see below).

#### **Relationship of the AONB Management Plan and Development Management**

The CRoW Act requires that a management plan is produced for each AONB, and accordingly the first Kent Downs AONB Management Plan was published in April 2004. The second revision Management Plan (20014-2019) has been formally adopted by all the local authorities of the Kent Downs. The Management Plan may be viewed on the Kent Downs web site. Please let us know if you would like any hard copies.

<https://s3-eu-west-1.amazonaws.com/explore-kent-bucket/uploads/sites/7/2018/04/18113849/KDAONB-Management-Plan.pdf>

Under the CRoW Act, the Management Plan is required to 'formulate the (Local Authority) policies for the management of the AONB and for carrying out their functions in relation to it'. The policies of the Kent Downs AONB Management Plan are therefore the adopted policies of all the Local Authorities in the Kent Downs.

The national Planning Policy Guidance confirms that AONB Management Plans can be a material consideration in planning decisions and this view is confirmed in previous appeal decisions, including APP/U2235/W/15/3131945, Land west of Ham Lane, Lenham, Maidstone,

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where at para 48 of the Inspectorate's decision letter, it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration". The decision can be downloaded at:

<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3131945>

Any Kent Downs AONB Unit response to consultations on planning applications will reflect the policies of the Management Plan along with other Kent Downs AONB produced guidance which help support the delivery of the policies of the Management Plan, as set out below.

## **Other Kent Downs AONB Guidance**

### [Kent Downs Landscape Design Handbook](#)

Design guidance based on the 13 landscape character areas in the Kent Downs. Guidance is provided on fencing, hedges, planting, gateways etc. to help the conservation and enhancement of the AONB.

### [Kent Downs Renewable Energy Position Statement](#)

Provides a clearly articulated position for the Kent Downs AONB partnership with regards to renewable energy technologies. It recognises that each Local Planning Authority must balance the impact of proposals for renewables on the AONB with all the other material planning considerations.

### [Kent Rural Advice Service Farm Diversification Toolkit](#)

Guidance on taking an integrated whole farm approach to farm developments leading to sound diversification projects that benefit the Kent Downs.

### [Kent Downs Land Manager's Pack](#)

Detailed guidance on practical land management from how to plant a hedge to creating ponds and enhancing chalk grassland.

### [Rural Streets and Lanes - A Design Handbook](#)

Guidance on the management and design of rural lanes and streets that takes the unique character of the Kent Downs into account. This document discusses the principle of shared space and uses examples from around the UK and Europe. The Handbook has been adopted by Kent County Council as policy.

### [Managing Land for Horses](#)

A guide to good practice on equine development in the Kent Downs, including grassland management, fencing, trees and hedges, waste management and basic planning information.

### [Kent Farmstead Guidance and Kent Downs Farmstead Guidance](#)

Guidance on the conservation, enhancement and development change of heritage farmsteads in the Kent Downs based on English Heritage's Kent and National Character Area Farmstead Statements. Includes an Assessment method and Design Guidance.

### [Kent Downs Setting Position Statement](#)

An advisory document providing guidance on issues of setting including the legislative basis for considering setting, identification of where setting is likely to be an issue and provision of advice on how to mitigate potential impacts.

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## The NPPF and AONBs

National planning policies are very clear that the highest priority should be given to the conservation and enhancement of Areas of Outstanding Natural Beauty. The NPPF confirms that AONBs are equivalent to National Parks in terms of their landscape quality, scenic beauty and their planning status.

Paragraph 172 of the revised NPPF specifies that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.' It is advised that the scale and extent of development within AONBs should be limited and that major developments should be refused in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. No definition is given as to what constitutes major development within an AONB, however a footnote to this paragraph states that this is 'a matter for the relevant decision taker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.

The thrust of the NPPF as set out in paragraph 11 is that there is a presumption in favour of sustainable development. It specifies that in respect of decision taking, proposals that are in accordance with an up to date development plan should be granted, however where there are no relevant development plan policies, or policies are out of date, permission should be granted unless the application of specific policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development. Footnote 6 to this paragraph specifies that such policies include those relating to AONBs. A Court of Appeal case in June 2017<sup>1</sup> clarified that identification of policies indicated in Footnote 6 (previously footnote 9 to paragraph 14 of the 2012 NPPF), does not shut out the presumption in favour, rather the specific policy or policies have to be applied and planning judgment exercised. In the case of AONBs, this would mean an assessment of the acceptability of the proposal against paragraph 172 of the NPPF.

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<sup>1</sup> Barwood Strategic Land II LLP (Appellant) and (1) East Staffordshire Borough Council and (2) Secretary of State for Communities and Local Government (Respondents), on appeal from the Administrative Court Planning Court, [2017] EWCA Civ 893 Case No: C1/2016/4569 [2016] EWHC 2973 (Admin), before: Lord Justice Gross, Lord Justice Underhill and Lord Justice Lindblom, on 25th May 2017.

## Enhancing landscapes and life in the Kent Downs

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<b>REFERENCE NO</b> -19/502525/FULL		
<b>APPLICATION PROPOSAL</b> Change of use and conversion, extension (to include construction of a first floor extension, loft conversion to habitable space with alterations to the roof line) and alteration of existing building in order to create a House of Multiple Occupancy (Sui Generis) comprising 10 units, -together with associated parking and landscaping.		
<b>ADDRESS</b> 1 Reginald Road Maidstone Kent ME16 8HA		
<b>RECOMMENDATION</b> Grant Planning Permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposals are acceptable in principle and would not give rise to harm to visual amenity, residential amenity or highway safety and convenience. It complies with all relevant policies of the Development Plan, the NPPF and all relevant material considerations such as are relevant.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by cllr. Paul Harper on grounds that it represents overdevelopment of the site.		
<b>WARD</b> Fant	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr J Mills <b>AGENT</b> DHA Planning
<b>TARGET DECISION DATE</b> 29/09/19		<b>PUBLICITY EXPIRY DATE</b> 24/07/19

**RELEVANT PLANNING HISTORY (including relevant history on adjoining site)**

There is no relevant planning history for the site.

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

- 1.01 Reginald Road is a residential street comprised mainly of traditionally built two-storey semi-detached properties in a wide range of designs, materials and ages. The application property when compared with neighbouring plots is uncharacteristically narrow and awkward looking. The property is on a prominent corner plot with readily available views from approaches into Reginald Road from Westree Road. The property is arranged over two floors and has rendered and painted elevations. The two-storey part of the property has a pitched roof and the single storey element a flat roof. The current lawful use of the building is an office (Class B1).
- 1.02 Houses in the street mostly occupy the majority of the width of their plots and generally closely spaced along the road. A defining characteristic in this part of the street is front bay windows and short front gardens resulting in the frontages of houses set closer to the road.
- 1.03 The site is within a short walking distance of Maidstone Town Centre and car parking is typically provided on the street and restricted by resident permit or short stay. The application property is flanked by residential development to the south, east and west.

## **2. PROPOSAL**

- 2.01 The proposal seeks to extend and convert the building to create a House in Multiple Occupation (HMO). In terms of external changes it mainly involves a first floor side extension over the existing single storey flat roofed eastern projection, transformation of the existing single storey rear projection into two storeys and conversion of the loft space to create a habitable accommodation. This element would effectively alter the basic shape of the roof and create a third floor to the property, with a ridge height that is slightly lower than the existing ridge at 8.8 metres. The proposal would not extend the footprint of the property further towards the common boundary with dwellings in Rowland Close.
- 2.02 The width of the first floor addition on the eastern flank would be 4 metres and the depth would be just under 14 metres. The newly formed parallel two storey rear projection would have a depth of 5.4 metres and width of 4.6 metres, retaining a gap of 2.2 metres with the existing projection. The proposed extension would create a building similar to the scale and form of existing buildings on the street, and the design, use of materials and fenestration details would respect the proportions and features of the existing dwelling.
- 2.03 Aspects of the scheme before members were amended on the Council's advice to replace the large front porch originally proposed with two bay windows. Fenestration openings on the front elevation have been re-designed to retain the appearance of existing openings. The newly formed first floor south facing window opening on the rear extension has been replaced with an oriel window to address overlooking and loss of privacy concerns with the dwelling at no.2 Charles Street. The mono pitched roof on the existing rear projection is changed to a flat roof to reduce impact.
- 2.04 In relation to internal layout, at ground floor are two rooms with kitchenettes and ensuite bathrooms are on the left hand side of the building. On the right hand side of the building through a single door off the lobby are two rooms that share a separate kitchen/dining room and a bathroom. Each of the rooms occupying a floor area of between 9.5 and 26 square metres.
- 2.05 The ground floor layout is replicated at second floor level. Each room covers a floor area of between 9 to 26 square metres with floorspace on the second floor marginally reduced by the absence of front bay windows. The two large ensuite rooms with kitchenettes provided in the loft space would have a floor area of 22 and 24.5 square metres respectively. The units are designed such that bedrooms are stacked above bedrooms to minimise potential impact from arrangements where living areas are above bedrooms.
- 2.06 The application building benefits from the rear garden space associated with its previous use as an office for KCC which would continue to serve as outdoor amenity space for future occupants of the proposed flats. The amenity space was accessible from the existing rear access to the building. The scheme does not include any off-street car parking provision for future occupants of the flats.
- 2.07 Pursuant to the Use Classes Order, Class C3 is the use of a dwellinghouse by a single household and Class C4 is the use of a dwellinghouse by not more than six residents as a House in Multiple Occupation. As a matter of fact a HMO for ten unrelated people as sought in this application cannot be a Class C4 use because a Class C4 use is limited to six residents, although members are reminded this does not affect the planning merits of the proposals.

## **3. POLICY AND OTHER CONSIDERATIONS**

- 3.01 National Planning Policy Framework (NPPF): Paras 8 (three dimensions of sustainable development); 10, 11 (presumption in favour of sustainable

development); 47 (Determining applications); 54, 55, 56, 57 (planning conditions and obligations); 61 (delivering sufficient supply of homes); 124, 127, 128, 130, 131 (good design).

3.02 National Planning Practice Guidance (NPPG): Design.

3.03 Development Plan: Maidstone Borough Local Plan (2017): Policies SS1 (Maidstone Borough Spatial Strategy); SP1 (Maidstone Urban Area); DM1 (Principle of Good Design); DM9 (Residential Extensions, Conversions and Redevelopment within the built up area); DM12 (Density of Housing Development); DM23 (Vehicle Parking Standards)

3.04 Supplementary Planning Documents: Residential Extensions – Supplementary Planning Document (2009) Page 8 - 22

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents:**

4.01 Six representations received from local residents raising the following (summarised) issues

- Overdevelopment of site
- Adverse impact on character of the area
- The proposal would exacerbate existing poor access to GP and other local services
- Increase in traffic and associated highways safety
- Increase in noise and disturbance
- Overlooking and loss of privacy

4.02 Two further comments were received following re-consultations on design

4.03 The planning issues raised by neighbours and the ward member are discussed in the detailed assessment below.

#### **5. CONSULTATIONS**

5.01 KCC Highways and Transport: Raise no objection, commenting the proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

#### **6. APPRAISAL**

##### **Main Issues**

6.01 The main issue in this submission are (i) the effect of the proposal on the character and appearance of the host property and of the local area, (ii) its effects on the living conditions of adjacent residents, having particular regard to noise and disturbance, and; (iii) the effect of the proposal on parking conditions in the locality and highway safety.

6.02 Policy DM1 of the adopted Local Plan requires development to create a high quality design and amongst other things retain and enhance features which contribute to the local character and distinctiveness. It states at (ii) that development should be well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location. The Government attaches great importance to the design of the built environment. The revised National Planning Policy Framework (2019) states that good design is a key aspect of sustainable development and goes on to advise that permission should be refused for development of poor design that fails to improve the character and quality of an area.

6.03 Of significance here is policy DM9 of the adopted Local Plan which addresses conversion or redevelopment of existing buildings in the Maidstone urban area to self contained flats or a house in multiple occupation. The policy contains a list of criteria that proposals for conversion of buildings must comply with. It states that

proposals involving intensification of the use of buildings and their curtilage should not significantly harm the appearance of the building or the character and amenity of the surrounding area.

- 6.04 Paragraph 6.54 of the Maidstone Local Plan states that 'the conversion of larger properties to houses in... multiple occupation HMOs aids the provision of accommodation for smaller households and contributes towards a mix and choice of homes, advocated by the NPPF'.
- 6.05 Owners or managers of properties that are licensable must inform the local authority of their premises and obtain a license outside of the planning system. This is obtained under separate housing legislation. HMOs are regulated under the Housing Act 2004. This makes sure that landlords and managing agents ensure the HMOs are safe and well managed. Maidstone has produced a standards booklet which sets out matters for consideration. Members are advised that a change to a use falling within (Sui Generis) is accepted in principle under the relevant provisions of the adopted Local Plan subject to assessment of the impacts on the local area and residential amenity, therefore an objection in this regard cannot be sustained.

Impact of the proposal upon the character and appearance of the area:

- 6.06 The overriding characteristic of Reginald Road is of two-storey semi detached properties of wide range of designs and materials with frontages set closer to the road. The application property is an uncharacteristically narrow in a street scene of mainly two storey dwellings and the proposal would transform the existing single storey flat roofed side projection to two storeys, improving the existing awkward appearance of the building. Policy DM1 states that development should reflect the positive characteristics and features of the site and locality. This in my view is an acknowledgement of the importance given to visual appearance that should be respectful of the existing character of the area in terms building width, depth and shape.
- 6.07 I note the comments from neighbours and the ward member raising objections to the proposal on grounds that it represents overdevelopment of the site. The adopted Local Plan and the NPPF promote higher densities in locations close to facilities and public transport. Whilst I accept the proposal would increase the size of the building, it would not be so substantial as to radically alter the character and appearance of the entire street. Of more relevance is my view that the resulting increase would bring an overall symmetry to this awkward looking building, which would enable it assimilate well within its surroundings. As set out in more detail below, the proposed accommodation of a good internal standard in relation to rooms sizes and layout.
- 6.08 The resulting bulk of the development would not be excessive or inappropriate in this area and would be in accordance with policy DM12 of the adopted Local Plan. The development represents efficient use of the land which is supported by the Local Plan which would not injure the character and appearance of the local area.
- 6.09 The due to its design, scale and form, the resulting proportions of the dwelling when viewed in the context of the street would not appear overly large or incongruous in its setting, as it is built on the existing side projection and would reflect the scale of dwellings in the street. It would appear as a thoughtfully designed addition that would resonate with the established character of the street. Design elements such as the bay windows would resonate with the established characteristics of the street.
- 6.10 There are a variety of roof designs in the street and the form of roof configuration proposed within this scheme would be in keeping with the visual character of the area. Surfacing materials proposed and fenestration openings would assist in

satisfactorily integrating the proposal within its surroundings ensuring the development accords with Policies DM1 and DM9 which amongst other things seek to ensure that all development are well designed to protect and enhance the special character and distinctiveness of the area.

- 6.11 Further comments raise objections to the proposal on grounds that it would have an adverse impact on the character of the local area which remains predominantly residential with a high proportion of family-occupied dwellings. Whilst the proposal would create a character which would not necessarily reflect the levels of activity of other family houses on the street, differences would not be so substantial as to affect the character of the street or the local area as a whole. The development would encourage a strong, vibrant and mixed community in support of the objectives of local and national policies which carries significant weight.

#### Residential Amenity

- 6.12 The core principles set out in the NPPF state that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of buildings. Policy DM1 advises that development should respect the amenities of occupiers of neighbouring properties and uses by ensuring that it does not result in excessive noise, activity or vehicular movements, overlooking or visual intrusion.
- 6.13 The proposed development would provide a good standard of residential accommodation overall with adequate daylight, sunlight and privacy provision. All habitable rooms are a sufficient size for daily activities and are served by window openings to allow for natural light and an adequate quantum of amenity space. I do not consider that the proposal would result in unacceptable standard of habitable space. The layout of the proposed accommodation and their points of access are less likely to give rise to noise and disturbance to neighbours and to one another. The outdoor amenity provision for the proposed accommodation is of acceptable proportion.
- 6.14 The development retains a 10 metre gap with the rear elevation of dwellings at Rowland Close which is sufficient to ensure there is no overbearing impact on their rear gardens. The distance between the rear projection and the common boundary with no.2 Charles Street would be 10 metres. Following concerns raised by the Council about this relationship, design amendments were submitted replacing the large window opening with a projecting timber clad oriel window and a small obscure glazed window which addresses the Council's concerns, this obscure glazing can be secured by condition if members are minded to grant approval.
- 6.15 It is noted that an objection has been received on the basis of the HMO standards, however there are no specific standards within the development plan relating to HMOs. Government guidance is clear that planning should not replicate the provisions of alternative legislation and regulation. Therefore, the planning merits of the proposal do not relate to the detailed internal standards (including matters such as fire alarms etc) as these would be managed through the licensing regime under the Housing Act, but to the wider principles of land use, amenity impact and highways impact.
- 6.16 I also note the concerns from neighbours regarding the level of occupancy proposed and likely impact in relation to noise and disturbance. The site was occupied by KCC as an office and has always attracted more activity than other neighbouring single family houses. I accept that the occupation of this type of accommodation would be different from the occupation of a property by a typical family. But I do not consider it probable that the proposed accommodation would result in the building being occupied by up to 20 people, as suggested by local residents. Firstly, the submitted

plans show a total of 10 units and the size of some of the proposed rooms are such that it would be difficult for them to accommodate a double bed and other furniture.

- 6.17 In considering the merits of the objections raised by neighbours in respect of noise and disturbance, no evidence have been produced to indicate that occupiers of the proposed accommodation would be likely to be especially noisy or be likely to cause more noise and disturbance than if the building were occupied by a single family. The arrangement proposed is relatively spacious internally with a good layout and plenty of access to natural light. Hence it is likely, by reason of the size of some of the units they would attract young professionals such as first time buyers. I do not consider that the negative external effects of the proposed occupation of this property would be sufficiently noticeable to harm the character of the area.
- 6.18 Access to the shared kitchen/common room and bathroom at the rear part of the property, would pass room 3 and 7. I do not believe this arrangement would cause unacceptable noise and disturbance to the occupants of these rooms. I accept such an arrangement is not ideal, but in the case of conversions of existing property is often unavoidable due to the layout of the building. I therefore conclude that the proposed development would accord with Policies DM1 and DM9 of the adopted Local Plan and those of the NPPF.
- 6.19 The development would not create any significant noise issues or be significantly affected by traffic noise. There is no evidence before me to substantiate the claim that the footfall generated by the proposal will exceed that generated by the existing lawful use of the site as an office. Given the proximity of the site to existing dwellings, there is the potential for construction to cause harm to residential amenities if carried out at unsociable hours. I therefore consider it necessary to append a condition requiring submission of a construction management plan with controls on construction hours. Taking all the above into account, I do not believe that the proposal would give rise to unacceptable harm to residential amenities.

Effect of the proposal on parking conditions in the locality

- 6.20 The proposal site is close to bus stops linking the site to wider transport links by rail and therefore considered as being accessible to public transport. There is no off-street parking provision on the site and a number of neighbours have raised concerns the proposal would likely exacerbate existing parking problems on the street. Whilst the proposal could generate a greater demand for parking, it seems reasonable to assume that occupiers would have relatively low incomes and would thus be more likely to rely on public transport. Overall, I see no reason to think that the scheme would result in a material increase in parking demand.
- 6.21 I note that the site is within reasonable walking distance from a range of local facilities, including a pharmacy, primary school and convenience stores and the range of facilities at Maidstone Town Centre. On this matter, I conclude the proposal is unlikely to give rise to an unacceptable risk of serious inconvenience and danger from increased parking around the local area. There is no conflict with policy DM23 of the adopted Local Plan which seeks to encourage greater use of sustainable transport options.

Other Matters

- 6.22 A number of the comments object to the proposal on grounds that it would exacerbate the prevailing poor access to local services in the area. Whilst I have sympathies with the concerns raised in this regard, I do not believe the quantum of development at this site would add significant additional burden on local services particularly when considering it is on a small scale.
- 6.23 The Council adopted a Community Infrastructure Levy (CIL) on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The proposed development is CIL liable. The actual amount of CIL can only be

confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

## **7. CONCLUSION**

7.01 I conclude that the proposed extensions would be in sympathy with the appearance and character of the local area and are appropriate in their details including scale, design and use of materials. I consider the proposals acceptable in terms of noise and disturbance, the living conditions of future occupiers and their effect on the character of the area. I have also given due consideration to the impact on the local road network and conclude the risk of causing inconvenience to drivers and pedestrians in Reginald Road would not be so significant as to raise overriding planning objection to this application and KCC Highways and Transport have not raised any objections in this regard.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;  
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings; DHA/13605/11 A (Proposed Site Layout Plan); DHA/13605/15 Rev B (Proposed Elevations); DHA/13605/13 Rev B (Proposed Elevations); DHA/13605/12 Rev B (Proposed Floor Plans);  
Reason: To ensure the quality of the development is maintained and to prevent harm to the amenity of surrounding area.
- 3) The materials to be used in the construction of the external surfaces to the approved extension shall match those used in the existing building;  
Reason: To ensure a satisfactory appearance to the development
- 4) Before the development hereby permitted is first occupied, the first floor window opening indicated to be obscure glazed on the south facing rear elevation and the windows on the east facing elevation (as shown on drawing no; DHA/13605/13 Rev B and DHA/13605/15 Rev B) shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such in perpetuity.  
Reason: To prevent overlooking of adjoining property and to safeguard the privacy of existing and prospective occupiers.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:
  - i. The parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iv. the erection and maintenance of security hoarding
  - vi. a scheme for recycling/disposing of waste resulting from demolition and construction worksReason: In the interests of the amenities of the area and highway safety and convenience.
- 6) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out on the land without the prior written permission of the Local Planning Authority.

Reason: In the interests of the amenities of the area.

- 7) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the east and west facing flank walls of the development hereby permitted, nor in the south facing elevation.

Reason: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers

- 8) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

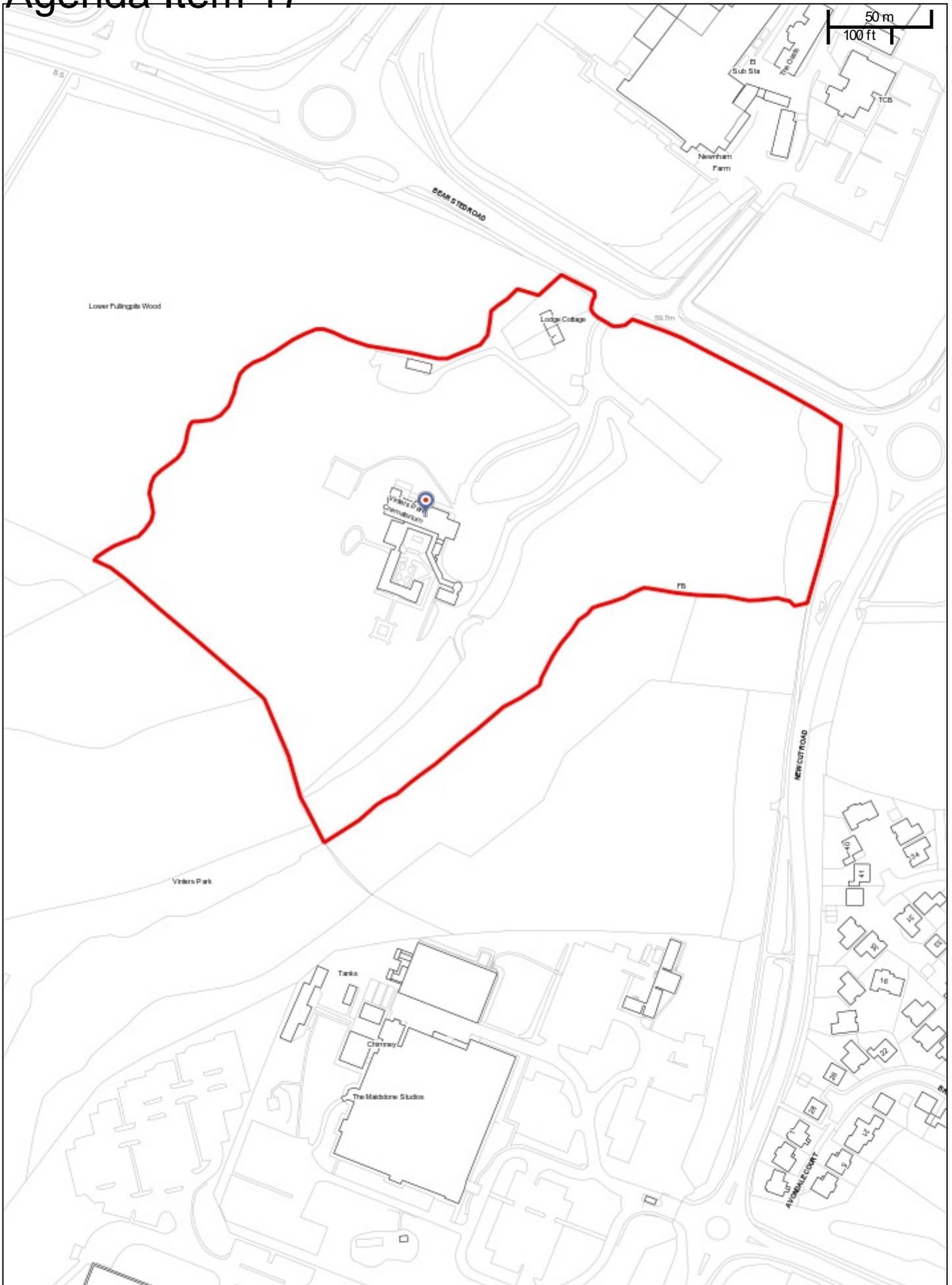
Reason: In the interest of residential amenity.

#### **INFORMATIVE**

- 1) Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228: 2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM regarding noise control requirements.

Case Officer: Francis Amekor

# Agenda Item 17



19/502829 - Winters Park Crematorium

Scale: 1:2500

Printed on: 18/9/2019 at 11:26 AM by EllyH

**REPORT SUMMARY**

<b>REFERENCE NO - 19/502829/FULL</b>		
<b>APPLICATION PROPOSAL</b> Adaptation of existing space to house cold storage facilities with new link extension to main building, creation of new opening to the East elevation and installation of 1no. air conditioning unit		
<b>ADDRESS</b> Vinters Park Crematorium Bearsted Road Weaving ME14 5LG		
<b>RECOMMENDATION</b> – Grant planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application is considered to preserve the character of the surrounding area and would not result in any amenity harm. The proposal would comply with the Development Plan and there are no overriding material considerations to indicate a refusal.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>  Maidstone Borough Council Application		
<b>WARD</b> Boxley	<b>PARISH/TOWN COUNCIL</b> Boxley	<b>APPLICANT</b> Maidstone Borough Council <b>AGENT</b> Maidstone Borough Council
<b>DECISION DUE DATE</b> 03/10/2019	<b>PUBLICITY EXPIRY DATE</b> 24/07/19	<b>OFFICER SITE VISIT DATE</b> 03/07/19
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>
18/502385/FULL	Extension to office	Approved with conditions
MA/09/0375	Erection of covered walkway extension	Approved with conditions
08/1681	Change of use from 2 No. former dwellings to create new (relocated) crematorium admin area	Approved with conditions
98/0728	A full planning application for new building works consisting of an extension to the existing overflow car park, alterations to the front gates and the construction of new footpaths	Approved with conditions
58/0006/MK2	Outline application for the erection of a crematorium and ancillary buildings	Approved with conditions
52/0184/MK2	The erection of a crematorium	Approved with conditions

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site is Vinters Park Crematorium. The crematorium is sandwiched between the residential housing estate of Vinters Park, the Maidstone Television Studios and Vinters Park Nature Reserve. The site lies within the urban area of Maidstone. A number of trees on the site are covered by group TPOs, an area of ancient woodland is located to the west of the site and Vinters Park nature reserve is located to the south. The nearest residential properties are located over 230 metres away from the crematorium building.
- 1.02 The application building is the main crematorium building and is centrally located within the extensive crematorium grounds. The building and site is accessed via Bearsted Road to the north. The application building is a part single storey and part two storey building and is constructed from brickwork, with a part hipped tiled roof and part flat felt roof.

## **2.0 PROPOSAL**

- 2.01 Permission is sought for improvements to the Crematorium to include the following:
- 2.02 New link extension to the main building and creation of a new opening to the east elevation with internal alterations to house cold storage facilities: At present the memorial room is located to the rear of the crematorium building and is accessed by a covered walkway with an open colonnade on one side, with memorial plaques running along the internal covered walls. The proposal would convert the existing memorial room into a cold store and would provide a new link extension to the main building and the committal room. The extension would cover an area of approximately 2m<sup>2</sup>. The brickwork and roof materials would match the existing building.
- 2.03 Installation of new air conditioning unit: This unit would be located on the northern elevation of the building in a gap between the proposed cold store and the main crematorium building. The air conditioning unit is required to maintain a design temperature of 6.5 degrees centigrade in the proposed cold storage room.
- 2.04 Alterations to openings: A new access door between the cold storage and new link and a new internal opening fitted with electric roller shutter between the link and the committal room.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: DM1

## **4.0 LOCAL REPRESENTATIONS**

- 4.1 Boxley Parish Council – No objection

## **5.0 CONSULTATIONS**

5.01 Environmental Health – No comments

## **6.0 APPRAISAL**

6.01 The key planning consideration includes the visual impact to the surrounding area and possible noise disturbance from the proposed 1 no. air conditioning unit.

### Visual Impact and Residential Amenity

6.02 The proposed link between the cold storage room and the committal room would be located to the rear of the crematorium building and would not be readily visible from the road or any other public vantage points. The proposed extension would match the existing structure and would be a minor infill extension to link two parts of the crematorium building. The proposed roller shutter door would be an internal door and would not be visible from the outside of the building. Given the appropriate location, scale and design of the proposal, it is not considered to have a harmful impact on the character of the surrounding area and in terms of visual impact, the proposal is considered to be acceptable. The proposal would be in accordance with Policy DM1 of the Maidstone Local Plan which requires proposals to have good design.

6.03 The proposed air conditioning unit would not appear unduly prominent as it would be located within the gap between the proposed cold store and the main crematorium building. The unit would not appear incongruous as it would be located low on the elevation wall, would not be visible from a public vantage point and would not detrimentally affect the character of the area. With regard to residential amenity, the nearest residential properties are located over 230 metres from the proposal. This separation distance is considered to be sufficient to ensure noise pollution would not be an issue. The Environmental Health Officer has been consulted and has no objection to the proposal. The proposed air conditioning unit would be in accordance with Policy DM1 of the Maidstone Borough Local Plan 2017.

### Other Matters

6.04 The application is for a minor infill extension and the proposal would not impact on ecology or on any trees within the site.

## **7.0 CONCLUSION**

7.01 In conclusion, the application is for a minor infill extension to the existing crematorium building and it is considered that the proposal accords with Policy DM1 (principles of good design) of the Maidstone Borough Local Plan 2017. The proposal is considered to be acceptable in all other respects and is therefore recommended that planning permission be granted subject to conditions.

**8.0 RECOMMENDATION** – GRANT Subject to the following conditions:

### CONDITIONS

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

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

- (2) The materials to be used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building;

Reason: To ensure a satisfactory appearance to the development.

- (3) The development hereby permitted shall be carried out in strict accordance with the following approved plans/drawings:

Site Location Plan – Received on 24/06/2019

Proposed Floor Plan – Drawing No. CS2

Proposed North and West Elevations – Drawing No. CSPE/1a

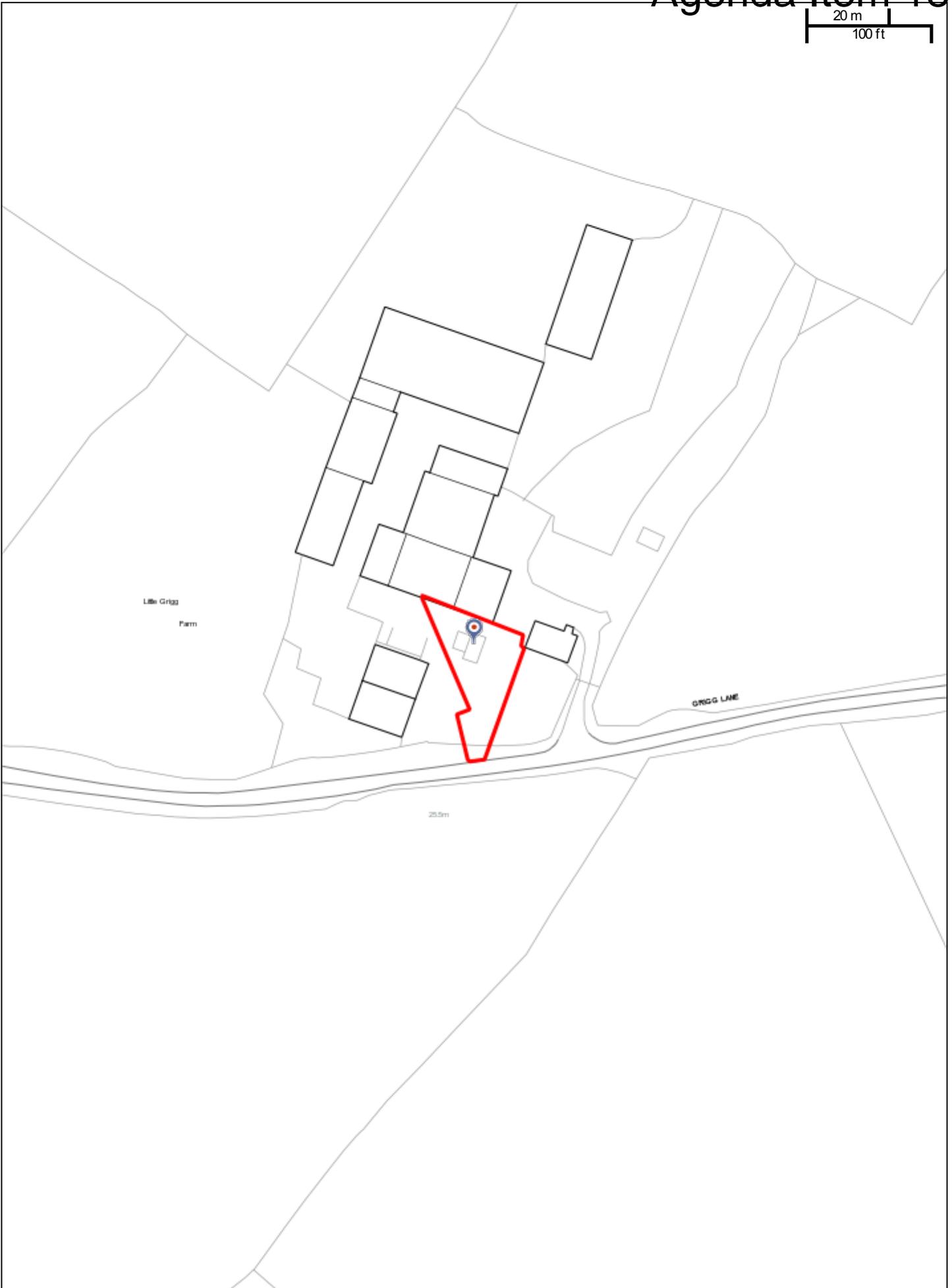
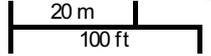
Proposed East and South Elevations – Drawing No. CS3

Reason: To ensure the quality of the development is maintained.

#### INFORMATIVES

Case Officer: Adam Reynolds

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



19/503481 - Little Griggs Farm Barn

Scale: 1:1250

Printed on: 18/9/2019 at 11:06 AM by EllyH



<b>REFERENCE NO - 19/503481/FULL</b>		
<b>APPLICATION PROPOSAL</b> Conversion and change of use of agricultural barn to residential dwelling together with first floor extension to lean-to, associated parking and residential garden (resubmission of 18/504895/FULL).		
<b>ADDRESS</b> Agricultural Barn Little Griggs Farm Barns Grigg Lane Headcorn Kent TN27 9LT		
<b>RECOMMENDATION</b> GRANT planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>- The site currently has an agricultural character due to the scale and appearance of the buildings currently occupying the site, nevertheless a number of these buildings are to be demolished while other buildings have permission to be converted to residential use.</li> <li>- Given the wider sites transition from primarily agricultural to residential use and that the building, the subject of this application, is embedded within and clearly forms part of the wider complex, the proposed development will not materially harm the landscape character of the Low Weald and rural character of the area.</li> <li>- The proposed external alterations along with subordinate scale of the proposed extension will conserve the essential agricultural/rural character of the building and heritage setting of which the building forms part.</li> <li>- The proposal is acceptable in its amenity, heritage, highways and wildlife impacts</li> <li>- Will provide the building with a long term viable use capable of maintaining its character and fabric while making a windfall contribution towards the Council's 5 year housing land supply in accordance with policy SS1 of the local plan.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Recommendation contrary to the views of Headcorn Parish Council that are set out in the consultation section below.		
<b>WARD</b> Headcorn	<b>PARISH/TOWN COUNCIL</b> Headcorn	<b>APPLICANT</b> Ms Deborah Brennan <b>AGENT</b> Kember Loudon Williams LLP
<b>TARGET DECISION DATE</b> 02/09/19		<b>PUBLICITY EXPIRY DATE</b> 11/09/19

**Relevant Planning History**

The following relates to other nearby buildings in this complex. A plan will be displayed at the meeting showing the location of the following in relation to the building the subject of this application.

16/506831/PNQCLA: Prior notification for the change of use of two agricultural buildings to two dwellings with building operations. Prior Approval granted.

18/502841/PNQCLA: Prior notification for the change of use of building 1 previously approved application 16/506831/PNQCLA for its revised design and external appearance. Prior Approval granted 31.07.18.

18/504895/FULL Conversion and change of use of agricultural barn to residential dwelling together with first floor extension to lean-to, new access, parking and residential garden. Withdrawn by applicant

19/500998/PNQCLA: Prior notification for the change of use of agricultural building to a dwellinghouse. Prior approval granted

19/500997/PNQCLA: Prior notification for the change of use of agricultural building to a dwellinghouse and for associated operational development. Prior approval granted

19/502766/PNQCLA: Prior Notification for the change of use of an agricultural barn to 1no. residential dwelling (Class C3), and for associated operational development. Prior approval granted

## **MAIN REPORT**

### **1. SITE DESCRIPTION**

- 1.1 The application site is occupied by a detached building and located within a complex of former agricultural buildings located on the north side of Grigg Lane. Little Grigg Farm farmhouse, to the east of the application site is a Grade II Listed Building.
- 1.2 The site is approximately 1.5km to the north-east of Headcorn in open countryside. The site forms part of the Low Weald Landscape of Local Value as shown on the Policies Map to the Local Plan.

### **2. PROPOSAL**

- 2.1 The proposal is for the change of use and extension of this building to provide a two bedroom dwelling.
- 2.2 The proposal involves the demolition of the single storey lean-to on the west side of the building and a replacement two storey extension on the same footprint.
- 2.3 Other external alterations involve the installation of additional doors and windows, a rooflight and raised ridge and roof tiles and sections of timber cladding for roosting bats. Also proposed is a rectangular shaped garden area, 2 parking spaces with access using the existing access onto Grigg Lane.
- 2.4 The application is accompanied by bat emergence reports, bat roost and barn owl assessments, heritage, structural and viability assessments.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough Local Plan 2017 SS1, SP17, SP19, DM1, DM3, DM30  
Supplementary Planning Documents; Maidstone Landscape Character Assessment  
Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015

### **4. LOCAL REPRESENTATIONS**

**Local Residents:** None received

### **5. CONSULTATIONS**

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

**5.1 Headcorn Parish Council:** Objects on the following grounds:

- Given the approvals of the other residential conversions, a significant proportion of the overall site will be redeveloped to include 4 dwellings and their cumulative rather than individual impact should be assessed.
- Though the site is not in a flood zone, it suffers from poor drainage and quickly becomes water logged in times of heavy rain.
- Low lying nature of the area has considerable effect on neighbouring properties and any development would only exacerbate problems unless appropriate drainage included.
- Reference is made to a package treatment plant but siting is not indicated. As the area is often waterlogged this cannot be considered a suitable method of waste water disposal.
- Given antiquity of many nearby buildings their listing should be considered including The Granary, Pig Feed Store and the Milking Parlour.
- Do not consider the prior approval consents that have been granted secure the preservation of the affected buildings
- The proposal does not meet the criteria for the conversion of rural buildings.
- Site was affected by the 2001 Foot & Mouth epidemic and mass disposal of cattle by burning took place at that time. The site should be subject to a full land contamination assessment.
- If the property is to become a dwelling it should have an Agricultural Occupancy condition applied to it.
- The proposal does not respect the amenities and historic character of the site and neighbouring properties.

**5.2 Kent Highways:** No comment to make on the proposal.

**5.3 KCC Ecology:** No objection subject to conditions relating to a condition on a detailed bat mitigation strategy be submitted along with a condition to secure the proposed ecological enhancements.

**6. APPRAISAL  
Main Issues**

**6.1** These are:

- principle,
- impact on the rural character and setting of the locality,
- design siting and layout,
- amenity,
- heritage
- highways and;
- wildlife considerations.

**Principle**

**6.2** The site lies in open countryside on land forming part of the Low Weald Landscape of Local Value. Policy SP17 of the local plan states, amongst other things, that the distinctive character of the Low Weald will be conserved and enhanced as a landscape of local value.

**6.3** Policy DM30 also includes criteria for acceptable development in the countryside, key being that new buildings should be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character the area. Account should be had of the Landscape Character Guidelines SPD.

- 6.4 The policy particularly relevant to this proposal is DM31 relating to the conversion of rural buildings. The building lends itself to the rural character of the area and is of sound construction.
- 6.5 Proposals for the re-use and adaptation of existing rural buildings for residential purposes will only be permitted, where, amongst other things, the following criteria are met being:
- (a) Every reasonable attempt has been made to secure a suitable business re-use for the building and;
  - (b) Whether residential conversion is the only means of providing a suitable reuse for an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape.
- 6.5 Dealing first with (a), the application has been accompanied by viability assessment (VA) which concludes that use of the building as offices, holiday lets or industrial uses are either unviable or cannot be successfully let. The VA further concludes that residential conversion is the only financially viable option enabling the continued restoration and continued beneficial use of the building.
- 6.6 Subject to the independent assessment of the VA confirming these findings (to be reported) the conversion of the building to residential use is acceptable in principle. An assessment of whether residential conversion of the building satisfies criteria (b) above is carried out below.
- Impact on landscape, rural character and setting.**
- 6.7 The site has an agricultural character due to the scale and appearance of buildings currently occupying the site. However a significant number of these buildings are to be demolished as the site transitions from primarily agricultural to residential use taking into the account the residential conversions permitted under prior approval procedures.
- 6.8 The building, the subject of this application, is embedded within and clearly forms part of the wider complex. Subject therefore to ensuring the agricultural character and appearance of the building to be converted (and extended) is maintained it would be difficult to argue that the proposed development will materially harm the landscape character of the Low Weald and rural character of the area. It would also be difficult to argue in these circumstances that the proposal would be contrary to the provisions of policies SP17 and DM30 of the local plan.
- Design, siting and layout.**
- 6.9 The two storey building to be converted has a strong traditional agricultural character, the 'memory' of which should be retained as part of any residential conversion. This is to avoid the building taking on an overly domestic appearance and therefore appearing out of character in this rural setting.
- 6.10 Revised plans show that the design, siting and detailing of windows and doors are acceptable and respect the existing detailing. Where new openings are proposed these are small and 'randomly' spaced with this approach helping to ensure the proposal is viewed as a conversion which retains the essential rural character of the building.
- 6.11 It is acknowledged that one of the requirements of policy DM31 is that the subject building can be converted without major or complete reconstruction. Part of the

proposal involves demolition of a single storey lean-to and its replacement on the same siting and footprint with a two storey addition. This is not considered major or complete reconstruction.

- 6.12 This proposed addition is subordinate to the main building and enables the provision of a small dwelling of usable space and proportions. The addition is also designed to reflect the character, detailing and proportions of the existing building while replacing an out of character lean to addition. In the circumstances the proposed two storey addition is acceptable in its scale and impact. In order to ensure the appearance of the building and extension is maintained, permitted development rights to extend or alter the building should be withdrawn by condition.
- 6.13 Amenity space of usable size and proportions is shown sited in front and to the side of the building. Subject to use of appropriate boundary treatments and withdrawal of permitted development rights to erect outbuildings in this area, the siting of the amenity area will not harm the rural character and appearance of the site.
- 6.14 No landscaping details have been submitted as part of the application. Nevertheless given the site context and its small area only limited landscaping is required which can be secured by condition.

#### **Amenity considerations**

- 6.15 Regard should be had to the future residents of the proposed dwelling and that of development overlooking and abutting the site. Dealing first with the occupants of the proposed dwelling it is considered that the proposed dwelling provides an acceptable standard of amenity.
- 6.16 In the context of the residential prior approvals that have been permitted, these are sufficiently far away to avoid causing loss of outlook or privacy to the future occupants of the proposed dwelling or be likely to have their own amenity materially affected by the proposed development.
- 6.17 The bulk, siting and profile of the building will not change when viewed from Little Grigg Farm (the proposed addition is on the opposite side of the building and thereby screened from view).
- 6.18 The amended plans show no material change to the appearance of the building and first floor windows serving the bedroom are small not providing much in the way of outlook. In addition they look across onto an open area in front of Little Grigg Farm already exposed to public view.
- 6.19 The proposal will not result in material harm to the outlook or amenity of dwellings already existing (and approved but not implemented) and is in line with Local Plan policy DM1.

#### **Heritage Considerations**

- 6.20 Notwithstanding the amenity assessment carried out above the heritage impact of the proposal needs to be assessed in relation to Little Grigg Farm, the Grade II LB abutting the site to the east.
- 6.21 The Planning (Listed Buildings and Conservation Areas) Act 1990 provides specific protection for buildings and areas of special architectural or historic interest. When making a decision concerning a listed building or its setting, the Council must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.22 The current application involves the demolition of an existing single storey lean to element of the application building and the construction of a two storey extension on

the same footprint. Little Grigg Farm farmhouse, is located 11 metres to the east of the application building and is a Grade II Listed Building. With the proposal mainly reusing the existing building and with extra bulk above the existing lean to addition, the impact will be 'less than substantial' and with the proposal providing a new dwelling the benefits of the proposal outweigh any negative impact.

- 6.23 The only material changes are that instead of an access abutting the LB this will be replaced by an amenity area serving the proposed dwelling. It is considered this represents a betterment to the character and setting of the LB in accordance with the provisions of policy DM4.

#### **Highways**

- 6.24 The traffic generated by one small dwelling will be nominal. In addition the access onto Grigg Lane, serving the existing farm complex, has good sight lines in both directions. As such the proposal will not result in material harm to the free flow of traffic or highway safety in Griggs Lane.

#### **Wildlife**

- 6.25 The submitted reports identified the building as supporting a summer day roost for up to five common pipistrelle bats and up to two brown long-eared bats. The dusk emergence survey also identified a single brown long-eared bat and two common pipistrelle bats emerging from the building. No evidence of barn owl occupation was identified but there was evidence of the building being used by nesting birds.
- 6.26 Regarding other protected species, the site consists entirely of hardstanding lacking cover and foraging opportunities. This makes it an unsuitable habitat for badgers, great crested newts or other amphibians or reptiles.
- 6.27 As the roof void is to be lost along with removal of some timber cladding the report identified a need to compensate for this loss of roosting potential.
- 6.28 Likely mitigation measures will be the installation of two bat boxes on nearby retained trees and a sparrow 'terrace' to be placed on the building. Raised timber cladding and soffit boxes with slots to enable access for roosting/hibernating bats along with the provision of bat/wildlife friendly lighting are also proposed.
- 6.29 The above package of measures represent a proportionate and appropriate response in protecting the interests of wildlife in accordance with policy DM3 of the local plan. KCC Ecology have confirmed the acceptability of the proposed measures.

#### **Other matters:**

- 6.30 Many of the concerns raised by the Parish Council have been addressed above however the following represent outstanding matters requiring a response.
- 6.31 The site does not lie within a flood zone. Reference has been made in consultation responses to the site suffering from poor drainage with any runoff from the development affecting adjoining development. With roof areas and areas of hardstanding not changing as part of the proposal it is difficult to envisage how the proposed development could cause additional water runoff.
- 6.32 Reference to the unsuitability of a package waste treatment plant is noted. It is understood this is an enclosed system that would not decant treated water in local watercourses where water levels precluded this.
- 6.33 Regarding whether nearby buildings should be listed including The Granary, Pig Feed Store and the Milking Parlour this is not a matter to be addressed as part of this application. This is a 'stand alone' project which is acceptable in its heritage impacts.

- 6.34 Prior approval consents permit alteration to the exterior of buildings to enable the residential use to take place but require retention of the main building structure. As such they could be seen to secure preservation of the affected buildings.
- 6.35 In the absence of a case being made on agricultural need there is no justification for imposition of an agricultural occupancy condition.

**Environmental Impact Assessment (EIA) Screening:**

- 6.36 The development is not of a scale or impact justifying an EIA. It should be stressed this has no bearing on the consideration of the planning assessment of the development.

**7.0 Conclusions**

- 7.1 Subject to the independent assessor's confirmation that residential use is the only viable way of ensuring the building continues to have a beneficial use the following is concluded:

- The site currently has an agricultural character due to the scale and appearance of buildings currently occupying the site, nevertheless a number of these buildings are to be demolished while other buildings have permission to be converted to residential use.
- Given the wider sites transition from primarily agricultural to residential use and that the building, the subject of this application, is embedded within and forms part of the wider complex, the proposed development will not materially harm the landscape character of the Low Weald and rural character of the area.
- The proposed external alterations along with subordinate scale of the proposed extension will conserve the essential agricultural/rural character of the building and heritage setting of which the building forms part.
- Is acceptable in its amenity, heritage, highways and wildlife impacts
- Will provide the building with a long term viable use capable of maintaining its character and fabric while making a windfall contribution towards Councils 5 year supply of dwelling as part of policy SS1 of the local plan.

- 7.2 It is therefore considered that the balance of issues fall in favour of the proposal and planning permission should be granted as a consequence.

**8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

2. Prior to any work being carried out to the roof or external cladding details of all external surface materials (including any hard surfacing) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.

Reason: In the interests of visual amenity and to safeguard the setting of the nearby Listed Building.

- 3) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the night time rural environment in the interests of visual amenity and in the interests of wildlife protection.

- 4) Before the installation of any doors and windows, joinery details shall have been submitted to and approved in writing by the Local Planning Authority. The details shall specify materials and finishes and include large scale plans at a scale of 1:20 showing long and cross profiles of the mullions, transoms and cills. Work shall only be carried out in accordance with the approved details and retained for the life of the development.

Reason: In the interests of visual amenity and to safeguard the setting of the nearby Listed Building.

- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class(es) A, B, C, D, E, F, G and H to that Order shall be carried out without the permission of the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard the setting of the nearby Listed Building.

6. If during the implementation of this planning permission evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: In the interests of pollution prevention and public safety.

7. The development hereby approved shall not be occupied until the parking, turning and access details shown on drawing no: RS17.53.BP01B have first been provided and shall be retained for the life of the development with no impediment to their intended use.

Reason: In the interests of highway safety and the free flow of traffic.

8. Prior to first occupation of the development hereby approved details of landscaping of the site (including provision for its a long term maintenance) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in the first planting season following first occupation of the development hereby permitted. Should within 5 years of implementation of the approved landscaping scheme any part become dead, dying diseased or dangerous it shall be replaced with specimens of the same species size and siting.  
Reason: In the interests of visual amenity and to safeguard the setting of the nearby Listed Building.
9. Prior to the development hereby approved commencing a detailed bat mitigation strategy shall be submitted to and approved writing to the Local Planning Authority. The strategy must be based on the recommendations set out within the bat emergence/Re-entry survey report (PJC consultancy dated June 2019). The strategy must be implemented as detailed within the approved report unless amended as part of a Natural England licence.  
Reason: In the interests of wildlife.
10. Prior to first occupation of the development hereby permitted the ecological enhancements set out within paragraph 4.2.1- 4.2.4 (inc) .of the Preliminary Bat roost Assessment and Barn Owl Assessment carried out by PJC consultancy shall be implemented as specified.  
Reason: In the interests of wildlife.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) of no fencing or other means of enclosure shall be erected on any part of the site. The fencing (or other means of enclosure) shall only be erected in accordance with the approved details and retained as such for the life of the development.  
Reason: In the interests of visual amenity and to safeguard the setting of the nearby Listed Building.
12. The development hereby approved shall be carried out in accordance with the following plans nos: RS17.53. EX01, BP01B SP03B and RS17.53.PL01F .  
Reason: In the interests of amenity.

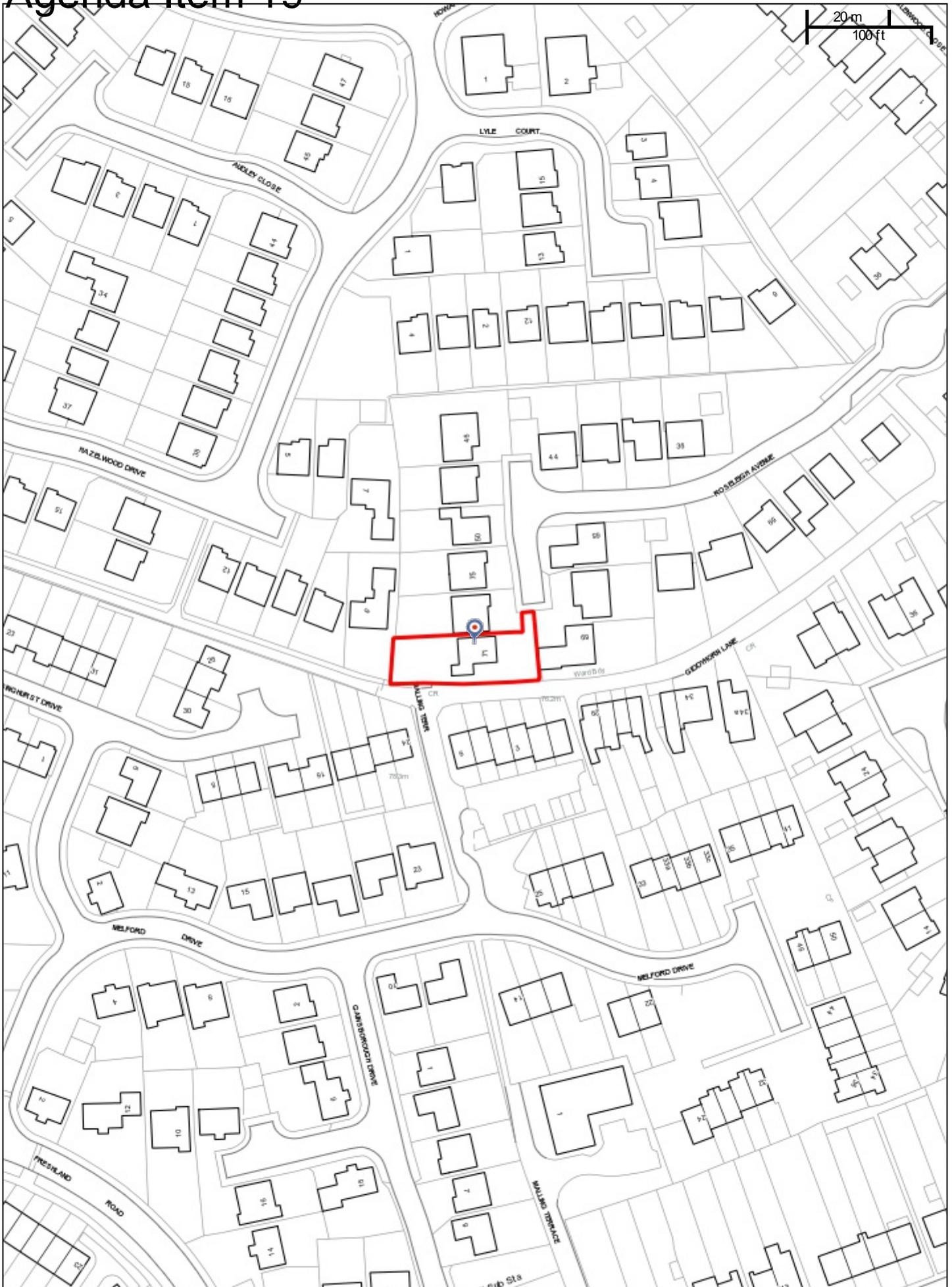
## **INFORMATIVES**

- 1) The proposed development is CIL (Community Infrastructure Levy) liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 2) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries> (<https://bit.ly/2kogNkI>)

- 3) The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees, scrub, hedgerows and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. The building present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

Case Officer: Graham Parkinson

# Agenda Item 19



20m  
100ft

**19/504088 - 71 Roseleigh Avenue**  
Scale: 1:1250  
Printed on: 18/9/2019 at 11:15 AM by ElyH

<b>REFERENCE NO -</b> 19/504088/FULL		
<b>APPLICATION PROPOSAL</b> Demolition of existing garage. Erection of two storey side extension.		
<b>ADDRESS</b> 71 Roseleigh Avenue, Maidstone, Kent, ME16 0AS		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  The proposed development accords with the policies and guidelines relating to domestic extensions.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>  Applicant is an employee at Maidstone Borough Council therefore the decision cannot be made under delegated powers.		
<b>WARD</b> Allington	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mr P Leeves <b>AGENT</b> Mr Desden Harman
<b>TARGET DECISION DATE</b> 09.10.2019		<b>PUBLICITY EXPIRY DATE</b> 10.09.2019

**Relevant Planning History**

95/0858 - Erection of 18 no. detached houses with garages

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

1.01 The application site comprises a detached 2-storey house located to the south of Roseleigh Avenue. The dwelling is part of a housing development that was approved in 1995 and consists of 18 detached dwelling of various, modern designs. The southern boundary of the application site where the extension is proposed is defined by trees and a close-boarded fence and beyond this is a rear access that serves Cades Place.

**2. PROPOSAL**

2.01 The application seeks permission to add a two storey side extension to the southern elevation of the existing property. The extension will extend the width of the property by 4.3 metres; it will have a depth of 8.4 metres and will be set in from the principle elevation and original rear elevation by 0.6 metres. The eaves height of the two storey side extension will be 4.85 metres with an overall height of 8.95 metres with a gable roof that will be set down from the original apex by 0.3 metres. Internally, the proposal will provide a living room on the ground floor and two bedrooms at first floor. The proposal seeks to increase the amount of bedrooms from four to five. There will be no proposed windows in the side elevation, only in the front and rear elevation including the installation of bi-fold doors at ground floor.

2.02 The external finishes of the proposal will match the materials used in the existing building.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM9 - Residential extensions, conversions and redevelopment within the built up area.

SPG 4 - KCC Parking Standards (2006)

Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document (2009)

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

- 4.01 No representations have been received from local residents as a result of the consultation process.

### **5. CONSULTATIONS**

- 5.01 No consultation responses have been received as a result of the consultation process.

### **6. APPRAISAL**

#### **Main Issues**

- 6.01 The key issues for consideration relate to:
- Design and visual impact of the proposal
  - The potential impact upon the amenities of neighbouring householders.

#### **Design and visual impact**

- 6.02 Policy DM9 of the Maidstone Borough Local Plan (2017) is supportive of extensions to dwellings within urban areas provided that the scale, height, form and appearance and siting of the proposal would fit unobtrusively within the existing building and the character of the street scene/or its context. In advising on side extensions, the Residential Extensions SPD (2009) notes that in a street of traditional detached and semi-detached houses, the infilling of the spaces between with two storey extensions could create a terraced appearance at odds with the rhythm of the street scene when the gaps, often with associated landscaping or allowing longer views are important elements. A side extension built flush with the existing front elevation of the house may also affect the symmetry of a pair of semi-detached properties with adverse impact on the street scene.
- 6.03 As the extension is proposed on the southern elevation of the application site where there is no properties in its immediate vicinity, the proposal would not result in a terraced appearance and would not destroy the rhythm of the street scene. Roseleigh Avenue does not have a strong building pattern due to the various properties orientation, siting and various designs.

- 6.04 The proposed two storey side extension has been designed to be proportionate to the existing dwelling and will incorporate a roof form that is complimentary to the original house with a height that is 0.3 metres lower than the ridge line of the main property. As well as the lower roof, the extension will be set back from the principle elevation and the rear elevation which results in a subordinate extension that will not overwhelm or destroy the main dwelling.
- 6.05 The exterior surfaces will be finished in materials matching the existing house and windows will be installed in the front and rear elevations as well as bi-fold doors in the ground floor rear elevation. I do not consider the proposed extension including the windows and bi-fold doors to dominate the appearance of the dwelling and therefore, in my view of these factors, the proposal will appear appropriate in its setting and will not detract from the visual qualities or general character of the street scene or the dwelling itself.

#### **Impact on neighbouring amenities**

- 6.06 Policy DM9 specifically states that domestic extensions will be supported provided that the privacy, daylight, sunlight and maintenance of a pleasant outlook of the adjoining residents would be safeguarded. This requirement is also observed in the Residential Extensions SPD (2009) where it is noted that the design of domestic alterations should not result in windows that directly overlook the windows or private amenity spaces of any adjoining properties and should also respect daylight, sunlight and outlook.
- 6.07 In terms of the two storey side extension, due to the siting and orientation of the application site the proposal would not result in any adverse impacts in terms of loss of daylight or outlook in relation to the neighbouring property to the north.
- 6.08 In regards to the properties in Cades Place, the proposal would be approximately 7 metres away from the start of the rear gardens at the nearest point. The southern boundary of the application site has an existing close boarded fence and trees and beyond that, a rear access way that serves the properties in Cades Place. Due to these various elements, I do not consider the proposal to have a detrimental impact in terms of outlook or loss of daylight for the properties in Cades Place.

#### **Other Matters**

- 6.09 KCC Highways state within their residential parking standards that a property with 4+ bedrooms should be allocated at least 2 independently accessible spaces within a suburban area. I would consider the amount of space retained on the private forecourt to accommodate 2+ cars and would therefore be in accordance with policy DM9 and KCC Highways recommendation for properties of this size.
- 6.10 There are three Trees with a Preservation Order at the application site. One is located east of the dwelling approximately 10 metres away from the proposed development. The other two trees are located to the west of dwelling, both are approximately 15 metres away from the development therefore, I would consider the proposal to be sufficiently set away from the TPO trees to not result in damage or future pressure to trim back the trees. An informal discussion with the Landscape and Tree officer confirms that it is not necessary to place a condition on the permission to protect the TPO trees due to the distance from the trees to the development and the existing hardstanding that surrounds the dwelling.

### **7. CONCLUSION**

- 7.01 The above assessments indicate that the proposed two storey side extension and alterations to 71 Roseleigh Avenue accord with the relevant policies and guidelines on residential extensions. There have been no objections from the neighbouring

householders or any consultees. On balance, this is an acceptable development and approval is therefore recommended subject to conditions.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:

Householder Application

19056PL-PP-S-(13)01 REV01 – Site location plans  
19056PL-PP-E-(01)01 REV – Existing first floor plans  
19056PL-PP-E-(01)00 REV – Existing ground floor plans  
19056PL-PP-S-(13)02 REV02 – Existing block plan  
19056PL-PP-E-(02)04 REV – Existing west elevations  
19056PL-PP-E-(02)02 REV – Existing east elevations  
19056PL-PP-E-(02)01 REV – Existing north elevations  
19056PL-PP-E-(01)02 REV – Existing roof plan  
19056PL-PP-E-(02)03 REV – Existing south elevations  
19056PL-PP-P-(03)00 REV – Proposed ground floor  
19056PL-PP-P-(03)01 REV – Proposed first floor plan  
19056PL-PP-P-(03)02 REV – Proposed roof plan  
19056PL-PP-P-(04)01 REV – Proposed north elevation  
19056PL-PP-S-(13)03 REV03 – Proposed block plan  
19056PL-PP-P-(04)02 REV – Proposed east elevation  
19056PL-PP-P-(04)03 REV – Proposed south elevation  
19056PL-PP-P-(04)04 REV – Proposed west elevation

Reason: To ensure the quality of the development is maintained and to prevent harm to the character, appearance and visual amenity of the area.

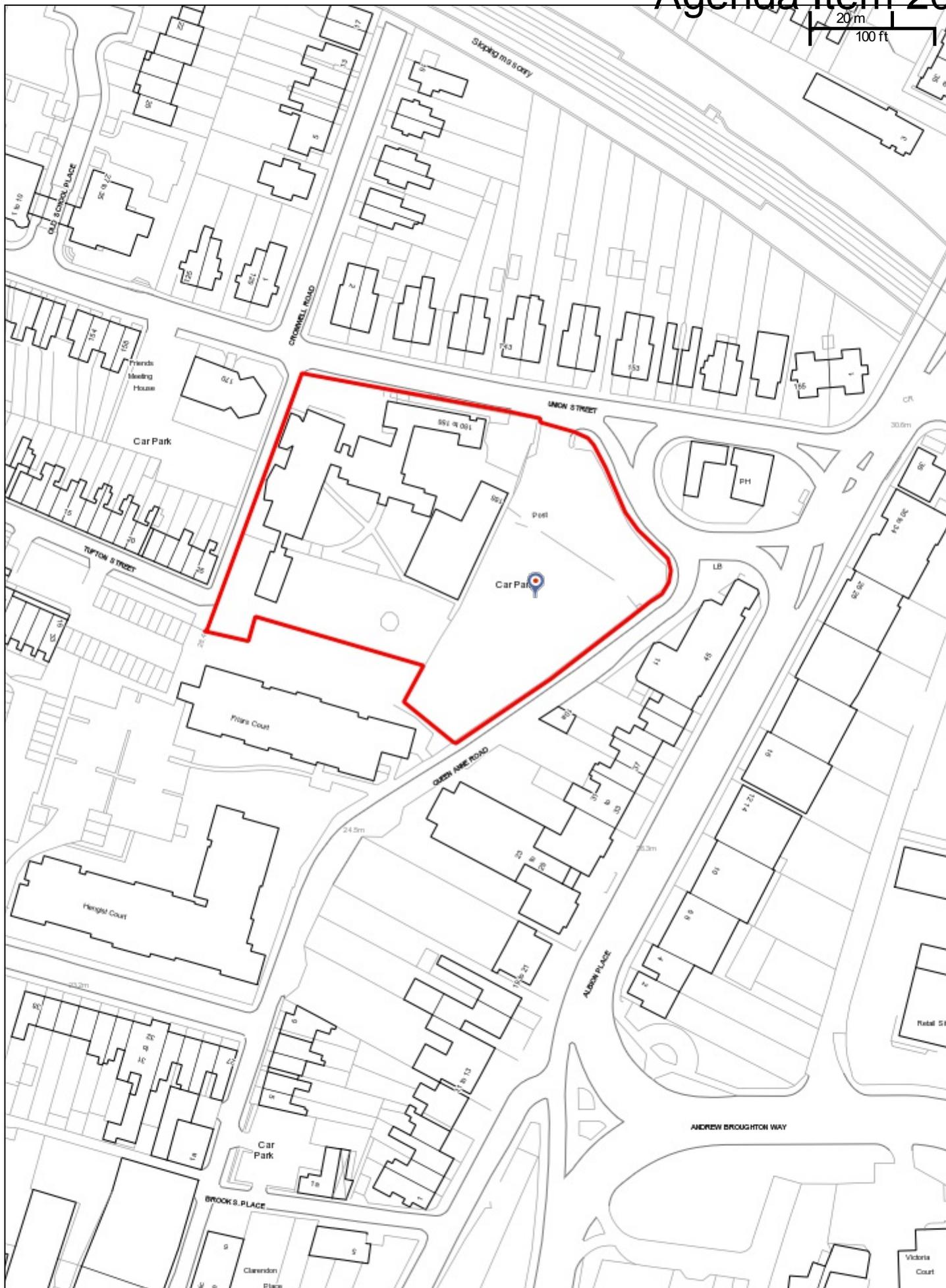
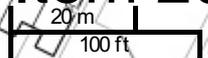
- 3) The external facing materials to be used in the construction of the extension hereby permitted shall match those used on the existing building;

Reason: To ensure a satisfactory appearance to the development.

## **INFORMATIVES**

No relevant informatives

Case Officer: Sophie Bowden



19/504494 - Maidstone Borough Council Car  
Park Scale: 1:1250



**REPORT SUMMARY**

<b>REFERENCE NO -</b> 19/504494/NMAMD			
<b>APPLICATION PROPOSAL</b> Non Material Amendment for removal of 4no. Kitchen windows on Elevation 5 (West Elevation) of Block 1. The surrounding recessed panels will also be removed and will be replaced with a projecting brickwork detail to maintain visual interest subject to 17/504428/FULL.			
<b>ADDRESS</b> Maidstone Borough Council Car Park Corner Of Union Street Maidstone Kent			
<b>RECOMMENDATION</b> – Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> There would be no significant environmental effects, effect on design or amenity. The changes as proposed are considered to be acceptable non-material alterations to the approved scheme.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Maidstone Borough Council was the applicant on the original application under planning application reference 17/504428/FULL			
<b>WARD</b> High Street	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Purelake New Homes Limited <b>AGENT</b> DB Architects	
<b>DECISION DUE DATE</b> 07/10/19	<b>PUBLICITY EXPIRY DATE</b>	<b>OFFICER SITE VISIT DATE</b>	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/504428/FULL	Creation of a new 48 space public car park, together with 30 flats in a stepped block backing onto Queen Anne Road. A row of 6 semi detached houses fronting Union Street and two terraced rows arranged as a 'Mews' providing 11 houses, together with a new estate road, allocated parking and soft landscaping	Approved	07/03/2018
18/504709/SUB	Submission of details pursuant to Condition 7: Details of materials	Approved	21/05/2019

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The redevelopment of the site to provide a public car park and residential development was approved under application reference 17/504428/FULL and is currently under construction.

- 1.02 The application site is to the south of Union Street, and turns the corner to Queen Anne Road which is to the east and southeast. The eastern part of the site previously included a 48 space MBC public car park and a 44 space car park reserved for NHS.

## **2.0 PROPOSAL**

- 2.01 Proposed alteration to the approved external western elevation of block 1A. The external elevation has been redesigned to remove windows and surrounding recessed panels. The windows and recessed panels would be replaced by projecting brickwork.
- 2.02 The applicant states that the removal of the small kitchen windows to each of the affected flats (4 in total) is required in order to improve the kitchen layout of each flat and to make the kitchen space more effective. The replacement projecting brickwork is proposed to ensure that that the building elevations would continue to contain visual interest.
- 2.03 The proposed amendment would not alter the number of flats approved.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: H1(12), DM1  
Supplementary Planning Documents:

## **4.0 CONSULTATIONS**

- 4.01 As an application under Section 96A of the Town and Country Planning Act 1990, this is not an application for planning permission. Therefore, provisions such as neighbour notification do not apply.

## **5.0 APPRAISAL**

- 5.01 Section 96a of the Town and Country Planning Act 1990 allows applications for non-material changes to planning permissions.
- 5.02 The visual change proposed is the removal of 4 kitchen windows on elevation 5 (north west) on block 1. The surrounding recessed panels which were to be constructed from recessed timber effect cladding and a recessed stone panel are also proposed to be removed and would be replaced with projecting brickwork. The brickwork to be used in the construction of the block was approved under application reference 18/504709/SUB. It is considered that this amendment is minor in the context of the scheme as a whole. The amendment would not result in a materially different appearance and the projecting brickwork would provide visual interest to the north western elevation of block 1. The elevation would still contain windows to the living rooms of each of the flats which ensures visual interest to this elevation and provides surveillance from the flank wall of the apartment block. The non-material amendment is considered to be in accordance

with Policy DM1 (Principles of Good Design) and criterion 3 of Policy H1(12) of the Local Plan which require a high standard of design and for proposals to respect the amenity of occupiers of neighbouring properties. The kitchen is open plan with the living room, which contains patio doors and windows, so the kitchens for each apartment would still receive adequate natural light and ventilation. It is considered that the removal of the window from the kitchen would not impact upon the amenity of future occupants of the units and would allow more practical use of the internal kitchen space.

## **6.0 CONCLUSION**

6.01 The proposed alterations would not result in significant environmental effects, effect on design or amenity. The changes as proposed are considered to be an acceptable non-material alteration to the approved scheme.

**7.0 RECOMMENDATION** – Application Permitted subject to the following conditions/reasons:

INFORMATIVE

(1) The decision was based on the following plans:

A(0)102 Rev G – Site Plan

A(1)300 Rev D – Block 1 Elevations

Case Officer: Adam Reynolds

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



**TPO/19/502875 - 6 Calehill Close**

Scale: 1:1250

Printed on: 18/9/2019 at 11:44 AM by EllyH



## REPORT SUMMARY

<b>REFERENCE NO - 19/502875/TPOA</b>		
<b>APPLICATION PROPOSAL</b> TPO Application to T1 Lime: Lift to 5m over property to give clearance.		
<b>ADDRESS</b> 6 Calehill Close Maidstone ME14 5QQ		
<b>RECOMMENDATION</b> Permit with conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed works are considered appropriate arboricultural management		
<b>REASON FOR REFERRAL TO COMMITTEE</b> It is a Maidstone Borough Council application for works to a protected tree.		
<b>WARD</b> East	<b>PARISH/TOWN COUNCIL</b> Unparished	<b>APPLICANT</b> Mr Nigel Holman <b>AGENT</b> Caroline Everest
<b>DECISION DUE DATE</b> 30/07/19	<b>PUBLICITY EXPIRY DATE</b> 03/07/19	<b>OFFICER SITE VISIT DATE</b> 12/06/19
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
None		

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The tree is growing on Maidstone Borough Council land situated between Calehill Close and Sittingbourne Road.
- 1.02 The tree is subject to Tree Preservation Order No.8 of 2005, being located within Group G1 of the Order.

### 2.0 PROPOSAL

- 2.01 The proposed work is crown lifting (removal and pruning of lower branches) to give a clearance of 5 metres above ground level.

### 3.0 POLICY AND OTHER CONSIDERATIONS

3.01 Government Policy:

National Planning Policy Framework February 2019

Ministry of Housing, Communities & Local Government, Planning Practice Guidance, Tree Preservation Orders and trees in conservation areas, March 2014

3.02 Local Policy:

Maidstone Borough Local Plan October 2017 - Policy DM 3

Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

3.03 Compensation:

In some circumstances, a refusal of consent to carry out works to trees subject to a Tree Preservation Order can result in a claim for compensation for loss or damage arising within 12 months of the date of refusal. The application does not indicate that any loss or damage is anticipated if the application is refused and as Maidstone Borough Council is the applicant, a compensation claim would not arise as a direct result of refusal.

**4.0 LOCAL REPRESENTATIONS**

4.01 **Local Residents:** One neighbour made comments neither objecting to or supporting the Planning Application raising the following issue:

“The tree identified on the plan is against my boundary. I don't believe this is the Lime tree that is the subject of the application”

The applicant has confirmed that the tree identified on the plan is correctly identified as the tree subject to the application for works.

**5.0 CONSULTATIONS**

5.01 No responses received

**6.0 APPRAISAL**

**Main Issues**

6.01 The key issue for consideration relates to:

- Whether the proposed works are appropriate management

**Appraisal of the tree**

6.02 Contribution to public visual amenity:  
Reasonable – limited views only/partially blocked by other features

Condition:  
Good – no significant defects noted

Useful life expectancy:  
Very Long - with an estimated remaining life expectancy of at least 40 Years

6.03 The tree is a single-stemmed, semi- mature Lime tree reaching approximately 15 metres in height, with an estimated main stem diameter of 50cm and radial crown spread of 5 metres. It appears to be in good health and condition with no significant defects noted during inspection. It is growing amongst a group of taller Poplar trees and is partially obscured from view as a result. It is, however, an important component of the group and likely to significantly outlive the Poplar trees and will therefore be important to provide ongoing mature tree cover when the Poplars reach the end of their safe useful life.

### **Impact of the proposed works**

- 6.04 The proposed crown lifting works will not result in unacceptably large pruning wounds. The extent of the crown lifting proposed equates to approximately one third of the total tree height and is not considered to be excessive. Such works are best carried out before trees are fully mature to avoid larger wounds. The proposed work is therefore considered to accord with current good practice recommendations for tree works. Given the location of the tree and the surrounding vegetation, the visual impact of the works is likely to be low.

### **7.0 CONCLUSION**

- 7.01 The proposal is unlikely to be detrimental to the long term health of the tree or its contribution to amenity. It is therefore considered to be appropriate arboricultural management.

### **8.0 RECOMMENDATION**

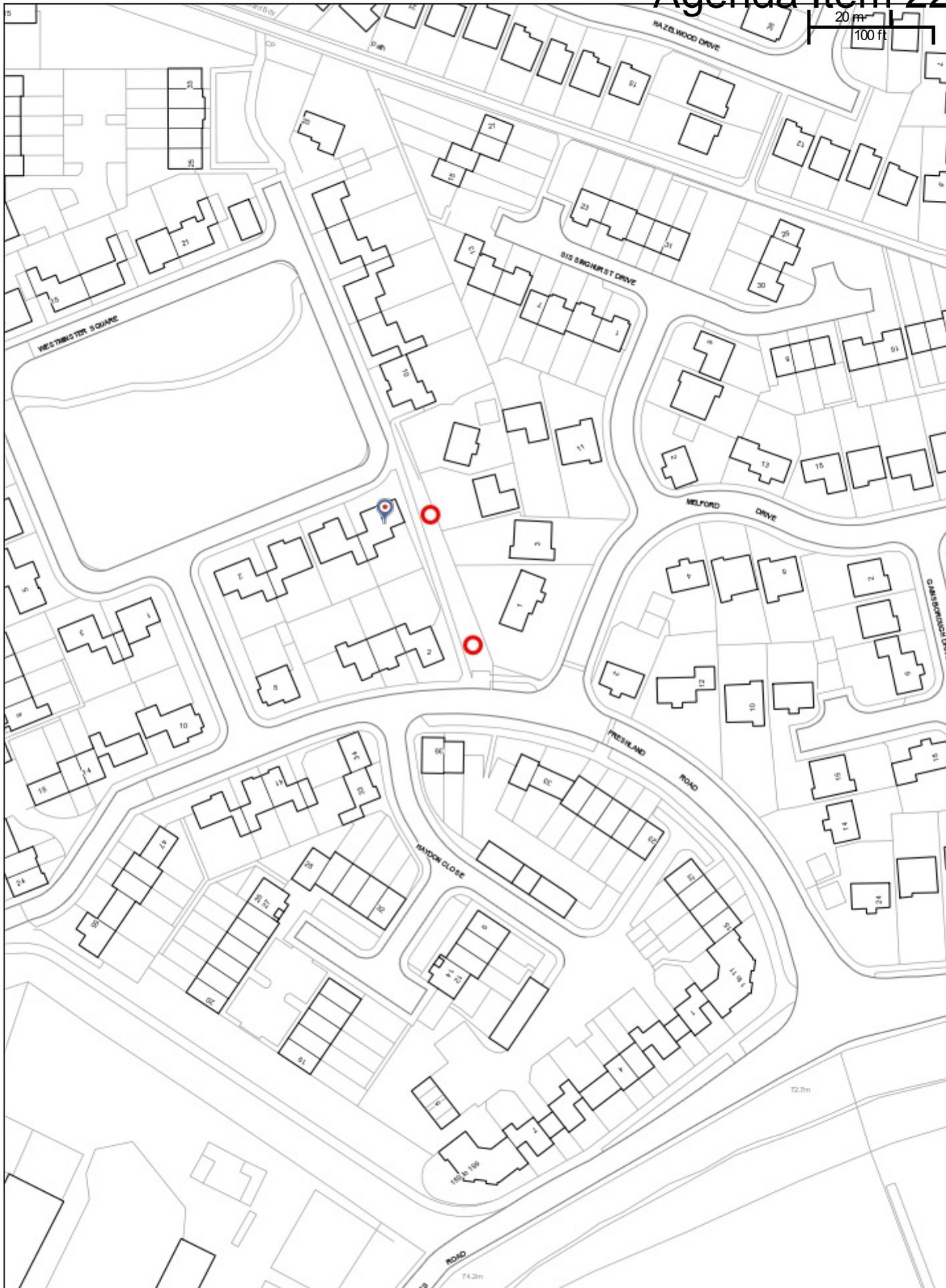
PERMIT Subject to the following condition:

- (1) All works hereby permitted shall be carried out in accordance with the provisions of the current edition of BS 3998 by a competent person;

Reason: To ensure the work complies with good arboricultural practice to safeguard the longevity, amenity and nature conservation value of the tree/s and its/their contribution to the character and appearance of the local area

#### **INFORMATIVES**

- (1) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.



## REPORT SUMMARY

<b>REFERENCE NO - 19/503752/TPOA</b>		
<b>APPLICATION PROPOSAL</b> TPO Application - T1 Beech Reduce radial spread from 3.5m to 2.5m, T2 Oak Reduce radial spread from 4m to 2.5m - Works are for maintenance purposes and to give clearance of properties		
<b>ADDRESS</b> Land Next To 8 Westminster Square Maidstone Kent ME16 0WQ		
<b>RECOMMENDATION</b> Permit with conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed works are considered appropriate arboricultural management		
<b>REASON FOR REFERRAL TO COMMITTEE</b> It is a Maidstone Borough Council application for works to a protected tree.		
<b>WARD</b> Heath	<b>PARISH/TOWN COUNCIL</b> Unparished	<b>APPLICANT</b> Mr Nigel Holman <b>AGENT</b> Caroline Everest
<b>DECISION DUE DATE</b> 29/09/19	<b>PUBLICITY EXPIRY DATE</b> 19/09/19	<b>OFFICER SITE VISIT DATE</b> 28/08/19
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
None		

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The tree is growing on Maidstone Borough Council land situated between Westminster Square and Melford Drive.
- 1.02 The trees are subject to Tree Preservation Order No.1 of 1994, designated as T277 Beech (T1 Beech on the application form) and T280 Sessile Oak (T2 Oak on the application form).

### 2.0 PROPOSAL

- 2.01 The proposed work is to prune the trees to reduce the radial spread of T277 Beech from 3.5m to 2.5m, and to reduce the radial spread of T280 Oak from 4m to 2.5m

### 3.0 POLICY AND OTHER CONSIDERATIONS

- 3.01 Government Policy:  
National Planning Policy Framework February 2019  
  
Ministry of Housing, Communities & Local Government, Planning Practice Guidance, Tree Preservation Orders and trees in conservation areas, March 2014
- 3.02 Local Policy:  
Maidstone Borough Local Plan October 2017 - Policy DM 3

Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

3.03 Compensation:

In some circumstances, a refusal of consent to carry out works to trees subject to a Tree Preservation Order can result in a claim for compensation for loss or damage arising within 12 months of the date of refusal. Whilst the application does not directly indicate that loss or damage is anticipated if the application is refused a risk further crown growth making direct contact with adjacent buildings and potentially causing damage is considered to be reasonably foreseeable if the application is refused. As Maidstone Borough Council is the applicant, a compensation claim would not arise as a direct result of refusal. However, in the event that future damage does occur, the Council's parks team may be liable to claims from the property owners or their insurers.

**4.0 LOCAL REPRESENTATIONS**

4.01 **Local Residents:** One neighbour made comments in support of the Planning Application raising the following issue:

"The garden of our property at 5 Melford Drive is seriously affected by the presence of the oak tree T2. It overshadows a large proportion of it causing much shade and hazard from falling pieces of branch and immature acorns to anyone in our rear garden. We certainly approve of removing as much of the tree T2 as possible and the sooner the better as far as we are concerned."

**5.0 CONSULTATIONS**

5.01 No responses received

**6.0 APPRAISAL**

**Main Issues**

6.01 The key issue for consideration relates to:

- Whether the proposed works are appropriate management

**Appraisal of T1 Beech on application form (T277 in TPO).**

6.02 Contribution to public visual amenity:  
Good – clearly visible to the public

Condition:

Good – no significant defects noted

Useful life expectancy:

Long - with an estimated remaining life expectancy of at least 20 Years

6.03 The tree is a semi-mature Beech consisting of two main stems (actually two trees with a conjoined crown) with a radial crown spread of 3.5 metres and reaching a height of approximately 16 metres. The main stems are ivy-clad, preventing a fully detailed inspection but the tree appears to be in generally good health and structural condition. The westernmost branches are approximately 1m from the adjacent house

at 2 Freshland Road and it is foreseeable that direct damage to the property could result if they are allowed to continue to grow unchecked. It is not considered that the relatively minor proposed works would be detrimental to the long term health of the tree or its contribution to amenity.

**Appraisal of T2 Oak on application form (T280 Oak in TPO).**

- 6.04 Contribution to public visual amenity:  
Good – clearly visible to the public

Condition:  
Good – no significant defects noted

Useful life expectancy:  
Very Long - with an estimated remaining life expectancy of at least 40 Years

- 6.05 The tree is a-mature Oak with an estimated stem diameter of 70cm, with a main fork at a height of 1.8m from which 3 main scaffold limbs give rise to a well balanced and well furnished crown that appears in good health and condition. Small diameter deadwood is present within the crown, but this is to be expected in a tree of this species, age and size and is not considered to be an indication of poor health.

The westernmost branches are less than 0.5m from the adjacent house at 8 Westminster Square and it is foreseeable that direct damage to the property could result if they are allowed to continue to grow unchecked. It is not considered that the relatively minor proposed works would be detrimental to the long term health of the tree or its contribution to amenity.

**7.0 CONCLUSION**

- 7.01 The proposal is unlikely to be detrimental to the long term health of the trees or their contribution to amenity. The works are considered necessary and appropriate to prevent foreseeable damage to adjacent houses. The proposal is therefore considered to be appropriate arboricultural management.

**8.0 RECOMMENDATION**

PERMIT Subject to the following condition:

(1) All works hereby permitted shall be carried out in accordance with the provisions of the current edition of BS 3998 by a competent person;

Reason: To ensure the work complies with good arboricultural practice to safeguard the longevity, amenity and nature conservation value of the tree/s and its/their contribution to the character and appearance of the local area

**INFORMATIVES**

(1) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 26<sup>th</sup> September 2019**

### **APPEAL DECISIONS:**

- 1. 19/502377** Loft conversion and proposed dormer windows to an existing annex

**APPEAL:** Dismissed

The Annexe  
7 Cavendish Way  
Bearsted  
Kent  
ME15 8PW

(Delegated Decision)

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- 2. 18/504636** Outline planning permission with access matters sought for the demolition of 466 Loose Road and the erection of six residential dwellings (one detached two storey dwelling fronting Loose Road and five bungalows within the rear). Matters of appearance, landscaping, layout and scale are reserved for future considerations.

**APPEAL:** Appeal allowed subject to Conditions & Award for costs refused

466 Loose Road  
Maidstone  
Kent  
ME15 9UA

(Committee Decision)

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- 3. 18/506515** Conversion of existing detached garage into 3 bedroom detached bungalow, including erection of a single storey side extension and new entrance from Lenham Road.

**APPEAL:** Dismissed & Award for costs refused

Primrose Cottage  
Fairbourne Lane  
Harrietsham  
Maidstone

Kent  
ME17 1LN

(Delegated Decision)

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**3. 18/503313**

Demolition of existing chalet bungalow, garage and two outbuildings and the erection of a four bedroom, two storey dwelling with car parking and a new vehicular access and landscaping. (Revision to 17/505708/FULL).

**APPEAL:** Dismissed

Vine Cottage  
Pye Corner  
Ulcombe  
Maidstone  
Kent  
ME17 1EF

(Delegated Decision)

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