

PLANNING COMMITTEE MEETING

Date: Thursday 24 March 2022
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Brindle, Cox, English, Eves, Harwood, Holmes, Kimmance, Munford, Perry (Vice-Chairman), M Rose, Spooner (Chairman), Trzebinski and Young

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.

AGENDA

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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 Items withdrawn from the Agenda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 - Monday 28 March 2022
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 17 February 2022 adjourned to 24 February 2022 1 - 13
11. Presentation of Petitions (if any)
12. Deferred Items 14 - 15
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Issued on Wednesday 16 March 2022

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

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20.	21/505249/REM - Land South West Of Hermitage Lane/Oakapple Lane, Barming, Maidstone, Kent	180 - 191
21.	21/503150/FULL - The Old Forge, Chartway Street, East Sutton, Maidstone, Kent	192 - 206
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23.	Appeal Decisions	215 - 216

PART II

To move that the public be excluded for the item set out in Part II of the Agenda because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test.

Head of Schedule 12A and Brief Description

24.	Exempt Appendix - Planning Application Reference 21/503585/FULL - Land West of Church Road, Otham, Kent	5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	217 - 233
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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 reports on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection; please follow this link: <https://pa.midkent.gov.uk/online-applications/>

PUBLIC SPEAKING AND ALTERNATIVE FORMATS

In order to speak at the meeting in person or by remote means, please call 01622 602899 or email committee@maidstone.gov.uk by 4 p.m. on Wednesday 23 March 2022. 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.

If you require this information in an alternative format please contact us, call 01622 602899 or email committee@maidstone.gov.uk

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MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 17 FEBRUARY 2022

ADJOURNED TO 24 FEBRUARY 2022

Present: **Councillor Spooner (Chairman) and**
17 **Councillors Brindle, Cox, Cuming, English, Harwood,**
February **Kimmance, Munford, M Rose, Round, Springett,**
2022 **Trzebinski and Young**

Also **Councillors Harper, Hinder, Newton and Purle**
Present:

209. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Eves, Holmes and Perry.

210. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Cuming for Councillor Perry
Councillor Round for Councillor Eves
Councillor Springett for Councillor Holmes

211. NOTIFICATION OF VISITING MEMBERS

Councillor Harper had given notice of his wish to speak on the reports of the Head of Planning and Development relating to applications 21/503585/FULL (Land West of Church Road, Otham, Kent), 21/503538/SUB (Land West of Church Road, Otham, Kent) and 21/506690/FULL (Telecommunications Base Station at Junction of Tonbridge Road and Oakwood Road, Maidstone, Kent), and attended the meeting remotely.

Councillor Hinder had given notice of his wish to speak on the reports of the Head of Planning and Development relating to applications 21/506322/FULL (Rose Cottage, Bearsted Road, Weaving, Kent) and 21/503615/FULL (Vinters Park Crematorium, Bearsted Road, Weaving, Maidstone, Kent), and attended the meeting remotely.

Councillor Newton had given notice of his wish to speak on the reports of the Head of Planning and Development relating to applications 21/503585/FULL (Land West of Church Road, Otham, Kent) and 21/503538/SUB (Land West of Church Road, Otham, Kent), and attended the meeting in person.

Councillor Purle had given notice of his wish to speak on the reports of the Head of Planning and Development relating to applications 21/503713/FULL (Land on Site of Former 51 London Road, Maidstone, Kent) and 21/506183/FULL (Pinelodge Cottage, Somerfield Road, Maidstone, Kent), and attended the meeting remotely.

212. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

213. URGENT ITEMS

The Chairman said that he intended to take the update reports of the Head of Planning and Development and the verbal updates in the Officer presentations as urgent items as they contained further information relating to the applications to be considered at the meeting.

214. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Brindle said that she was a Trustee of the Vinters Valley Park Trust, appointed by the Borough Council. However, she had not taken part in the submissions being made by the Trust in support of application 21/503615/FULL (Vinters Park Crematorium, Bearsted Road, Weaving, Maidstone, Kent), she did not have any knowledge of the contents of these submissions, and she did not have an Other Significant Interest in the proposed development. She was coming to the meeting with an open mind and intended to speak and vote when the application was discussed.

Councillor Brindle said that she was a Member of Boxley Parish Council, but she had not taken part in the Parish Council's discussions regarding application 21/506322/FULL (Rose Cottage, Bearsted Road, Weaving, Maidstone, Kent) and intended to speak vote when it was considered.

Councillor Springett said that since she had pre-determined application 21/503585/FULL (Land West of Church Road, Otham, Kent), she would not take part in the discussion or the voting when it was considered. However, she did not believe that she had pre-determined application 21/503538/SUB (Land West of Church Road, Otham, Kent) and intended to speak and vote when it was considered.

Councillor Cuming said that he was a member of the Bearsted and Thurnham Society which had raised objections to application 21/503585/FULL (Land West of Church Road, Otham, Kent). However, he had not taken part in the Society's decision to raise objections and intended to speak and vote when the application was considered.

Councillor Cox said that he was the Chairman of the Vinters Valley Park Trust. However, he did not consider that he had an Other Significant Interest in application 21/503615/FULL (Vinters Park Crematorium, Bearsted Road, Weaving, Maidstone, Kent), and he had not contributed to the representations to be made by Mr Lott on behalf of the Trust at this

meeting. He was not pre-determined and intended to speak and vote when the application was considered.

Councillor M Rose said that her colleague, Councillor Harper, would be speaking as a Visiting Member on the Church Road applications. She had not discussed with him the content of his representations.

Councillor Spooner said that he was a Member of Bearsted Parish Council and a member of the Bearsted and Thurnham Society, both of which had raised objections to application 21/503585/FULL (Land West of Church Road, Otham, Kent). However, he had taken no part in the formulation of those objections and intended to speak and vote when the application was considered.

215. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

13.	21/503585/FULL - Land West of Church Road, Otham, Kent	Councillors Brindle, Cox, English, Harwood, Kimmance, Munford, Round, Trzebinski and Young
14.	21/503538/SUB - Land West of Church Road, Otham, Kent	Councillors Brindle, Cox, English, Harwood, Kimmance, Munford, Round, Spooner, Springett, Trzebinski and Young
15.	21/503713/FULL - Land on Site of Former 51 London Road, Maidstone, Kent	Councillors Brindle, Cox, English, Harwood, Kimmance and Round
16.	21/506690/FULL - Telecommunications Base Station at Junction of Tonbridge Road and Oakwood Road, Maidstone, Kent	Councillors Brindle, Cox, Cuming, English, Kimmance, Munford, Round, Spooner, Trzebinski and Young
17.	21/506322/FULL - Rose Cottage, Bearsted Road, Weaving, Kent	No lobbying
18.	21/503615/FULL - Vinters Park Crematorium, Bearsted Road, Weaving, Maidstone, Kent	Councillors Cox, English, Harwood, Kimmance and Round
19.	21/505932/FULL - Wares Farm, Redwall Lane, Linton, Kent	Councillors Brindle, Kimmance, Munford, M Rose, Round, Spooner and Trzebinski
20.	21/506183/FULL - Pinelodge Cottage, Somerfield Road, Maidstone, Kent	Councillor Brindle

216. EXEMPT ITEMS

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

217. MINUTES OF THE MEETING HELD ON 20 JANUARY 2022

RESOLVED: That the Minutes of the meeting held on 20 January 2022 be approved as a correct record and signed.

218. PRESENTATION OF PETITIONS

There were no petitions.

219. DEFERRED ITEMS

20/505611/SUB - SUBMISSION OF DETAILS TO DISCHARGE CONDITION 18 - FOUL AND SURFACE WATER SEWERAGE DISPOSAL SUBJECT TO 14/502010/OUT - DICKENS GATE, MARDEN ROAD, STAPLEHURST, TONBRIDGE, KENT

The Development Manager said that the Case Officer had confirmed that advice had been received from the external consultant and the application would be reported to the next meeting of the Committee.

21/505452/LBC - LISTED BUILDING CONSENT FOR WORKS TO RE-POSITION/RE-BUILD A SECTION OF RAGSTONE WALL (TO FACILITATE THE A20 ASHFORD ROAD AND WILLINGTON STREET JUNCTION CAPACITY IMPROVEMENT SCHEME) - MOTE PARK, A20 ASHFORD ROAD JUNCTION WITH WILLINGTON STREET, MAIDSTONE, KENT

The Development Manager said that the application would be reported back to the Committee when the necessary information was available.

220. 21/503585/FULL - SECTION 73 - APPLICATION FOR VARIATION OF CONDITION 30 (TO VARY THE TRIGGER POINT FOR THE DELIVERY OF THE WILLINGTON STREET/DERINGWOOD DRIVE IMPROVEMENTS TO PRIOR TO OCCUPATION OF 100 UNITS RATHER THAN PRIOR TO COMMENCEMENT ABOVE FLOOR SLAB LEVEL) PURSUANT TO APPLICATION 19/506182/FULL (RESIDENTIAL DEVELOPMENT FOR 421 DWELLINGS WITH ASSOCIATED ACCESS, INFRASTRUCTURE, DRAINAGE, OPEN SPACE AND LANDSCAPING - ALLOWED ON APPEAL) - LAND WEST OF CHURCH ROAD, OTHAM, KENT

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

Councillor Hickmott of Otham Parish Council addressed the meeting in person.

Councillor Tribley of Bearsted Parish Council addressed the meeting remotely.

Mr Moore addressed the meeting in person on behalf of the applicant making reference to this application and application 21/503538/SUB (Submission of details to discharge four conditions attached by the Planning Inspector to the approval of application 19/506182/FULL; all relating to pedestrian and cycle links within and outside the site).

Councillor Harper (Visiting Member) addressed the meeting remotely on application 21/503538/SUB.

Councillor Newton (Visiting Member) addressed the meeting in person.

Contrary to the recommendation of the Head of Planning and Development, it was proposed and seconded that permission be refused for the following reasons:

The impact of construction traffic and from 100 dwellings, in advance of the approved Willington Street/Deringwood Drive junction improvement, would result in unacceptable and severe impacts upon highway safety conditions for pedestrians and cyclists crossing the existing junction, as considered by the Appeal Planning Inspector. The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route 17. This would be contrary to policy DM21 of the Maidstone Borough Local Plan (2017), policies ST1 and ST2 of the Otham Parish Neighbourhood Plan (2020-2035), and Paragraphs 110 and 111 of the National Planning Policy Framework.

Prior to the vote being taken, the Head of Planning and Development advised the Committee that (a) he did not consider these grounds to be sustainable at appeal and (b) there was a risk of a significant award of costs against the Council.

The representative of the Interim Head of Legal Partnership explained that since the Head of Planning and Development believed that these grounds would not be sustainable at appeal and that there was a risk of a significant costs award against the Council, then, if the motion was agreed, the decision would be deferred until the next meeting of the Committee in line with the Council's Constitution.

RESOLVED: That permission be refused for the following reasons:

The impact of construction traffic and from 100 dwellings, in advance of the approved Willington Street/Deringwood Drive junction improvement, would result in unacceptable and severe impacts upon highway safety conditions for pedestrians and cyclists crossing the existing junction, as considered by the Appeal Planning Inspector. The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route 17. This would be contrary to policy DM21 of the Maidstone Borough Local Plan (2017), policies ST1 and ST2 of the Otham Parish Neighbourhood Plan (2020-2035), and Paragraphs 110 and 111 of the National Planning Policy Framework.

Voting: 11 – For 0 – Against 1 – Abstention

Note: Having stated that she had pre-determined this application, Councillor Springett did not participate in the discussion or the voting.

DECISION DEFERRED UNTIL THE NEXT MEETING

221. 21/503538/SUB - SUBMISSION OF DETAILS TO DISCHARGE CONDITIONS 9 (RAMP TO PUBLIC RIGHT OF WAY KM86), 11 (PEDESTRIAN/CYCLE ROUTE DETAILS), 35 (PEDESTRIAN/CYCLE LINK TO SOUTH), AND 38 (UPGRADE WORKS TO PROW KM86), SUBJECT TO THE APPEAL DECISION OF APPLICATION 19/506182/FULL - LAND WEST OF CHURCH ROAD, OTHAM, KENT

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

Mr Moore had already addressed the meeting in person on this application and application 21/503585/FULL on behalf of the applicant.

Councillor Harper (Visiting Member) had already addressed the meeting remotely on this application.

Councillor Newton (Visiting Member) addressed the meeting in person.

RESOLVED: That the details submitted to discharge conditions 9, 11, 35 and 38 attached by the Planning Inspector to the approval of application 19/506182/FULL be approved subject to the conditions and informatives set out in the report with delegated powers being given to the Head of Planning and Development to (a) seek a revised landscaping plan with Small-Leaved Lime trees instead of Hornbeam and (b) amend condition 4 (Landscaping Scheme) to refer to the revised plan.

Voting: 12 – For 0 – Against 1 – Abstention

222. 21/506690/FULL - REMOVAL OF 1 NO. 12.5M STREET MONOPOLE, AND REPLACEMENT WITH 1 NO. 20M STREET MONOPOLE SUPPORTING 3 NO. ANTENNAS. REMOVAL OF 1 NO. CABINET AND 1 NO. METER CABINET AND REPLACEMENT WITH 1 NO. NEW METER CABINET, AND ANCILLARY WORKS THERETO - TELECOMMUNICATIONS BASE STATION AT JUNCTION OF TONBRIDGE ROAD AND OAKWOOD ROAD, MAIDSTONE, KENT

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

In introducing the application, the Senior Planning Officer advised the Committee that since publication of the urgent update report, further representations had been received from a neighbour raising health issues, including the validity of the ICNIRP certificate, and issues concerning the exclusion zone. She had re-consulted the Environmental Health Officer who had confirmed that there was a valid ICNIRP certificate for the site. Paragraph 118 of the NPPF stated that local planning authorities should

not set health safeguards different from the International Commission guidelines for public exposure and health matters should not form part of the assessment of such applications. There was a five-metre exclusion zone around the antennae of the monopole which would be at a height of 17.6m. The certification for this was up to date and had been confirmed by the Environmental Health Officer.

Mr Farry, an objector, addressed the meeting in person.

In the absence of a representative of a local residents' association/amenity group, the Chairman read out a statement on behalf of Mr Best, another objector, who was unable to address the Committee himself due to connectivity issues.

Mr Flaherty addressed the meeting remotely on behalf of the applicant.

Councillor Harper (Visiting Member) addressed the meeting remotely.

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

Voting: 6 – For 6 – Against 1 – Abstention

There being equal numbers of votes for and against, the Chairman exercised his casting vote in favour of permission being granted.

223. 21/503713/FULL - ERECTION OF A FOUR STOREY APARTMENT BUILDING COMPRISING 14 NO. UNITS WITH ASSOCIATED LANDSCAPING AND ANCILLARY WORKS INCLUDING THE CREATION OF NO. 7 PARKING SPACES, CYCLE SHELTER AND BINS STORES, CREATION OF NEW PEDESTRIAN ACCESS AND USE OF EXISTING VEHICULAR ACCESS FROM LONDON ROAD - LAND ON SITE OF FORMER 51 LONDON ROAD, MAIDSTONE, KENT

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

Mr Bevan, an objector, addressed the meeting in person.

Mr Lemon addressed the meeting remotely on behalf of the applicant.

Councillor Purle (Visiting Member) addressed the meeting remotely.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission for the following summarised reasons:

- The proposed development by reason of its layout, design, bulk, scale and massing, and consequential lack of appropriate and sufficient landscaping to mitigate the impacts of the development including opportunities to improve biodiversity in and around the site, over-development and lack of sufficient parking provision on-site both for

future residents and for the servicing of the site in terms of visitor and delivery parking, results in a development which fails to integrate successfully in this prominent location on the approach to Maidstone Town Centre characterised by sylvan, spacious plots and the use of ragstone and, as a result, would fail to achieve a high-quality design contrary to policy.

- The proposed development by reason of its design, scale and massing would represent an overbearing form of development resulting in a loss of outlook and privacy to the occupants of No.49 London Road contrary to policy DM1 of the Maidstone Borough Local Plan (2017) and other policies relating to design.

RESOLVED: That permission be refused and that the Head of Planning and Development be given delegated powers to finalise the reasons for refusal, to include the key issues cited above, and to incorporate the relevant policies.

Voting: 13 – For 0 – Against 0 – Abstentions

224. 21/503615/FULL - THE CONSTRUCTION OF SURFACE WATER ATTENUATION AND SETTLING LAGOONS WITH ASSOCIATED DRAINAGE INFRASTRUCTURE AND LANDSCAPING - VINTERS PARK CREMATORIUM, BEARSTED ROAD, WEAVERING, MAIDSTONE, KENT

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

In introducing the application, the Planning Officer advised the Committee that he wished to clarify that although the report referred to Councillor Harwood objecting to the proposal, he had not written specifically objecting to the development, only raising concerns about it.

In the absence of a representative of Boxley Parish Council and with the Chairman's agreement, Mr Lott, a local resident and Trustee of the Vinters Valley Park Trust, addressed the meeting in support of the proposed development.

The Democratic Services Officer read out a statement on behalf of Mr Shorter, for the applicant, who was unable to address the meeting remotely due to connectivity issues.

Councillor Hinder (Visiting Member) addressed the meeting remotely.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report with an additional condition requiring details of a management plan for the long-term maintenance of the lagoons including regular testing of water quality.

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: 8 – For 4 – Against 1 – Abstention

Note: Councillor Harwood requested that his dissent be recorded.

225. ADJOURNMENT OF MEETING

At 10.20 p.m., following consideration of the report of the Head of Planning and Development relating to application 21/503615/FULL (Vinters Park Crematorium, Bearsted Road, Weavering, Maidstone, Kent), the Committee:

RESOLVED: That the meeting be adjourned until 6.00 p.m. on Thursday 24 February 2022 when the remaining items on the agenda will be discussed.

226. DURATION OF MEETING

6.00 p.m. to 10.25 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 17 FEBRUARY 2022

ADJOURNED TO 24 FEBRUARY 2022

Present: Councillor Spooner (Chairman) and
24 Councillors Brindle, Coates, Cox, English, Eves,
February Holmes, Munford, Perry, Trzebinski and Young
2022

Also Councillors Hinder and Purle
Present:

227. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Kimmance and M Rose and that Councillor Eves would be late in arriving at the meeting.

228. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Coates was substituting for Councillor M Rose.

229. NOTIFICATION OF VISITING MEMBERS

Councillor Hinder had given notice of his wish to speak on the report of the Head of Planning and Development relating to application 21/506322/FULL (Rose Cottage, Bearsted Road, Weaving, Kent), and attended the meeting remotely.

Councillor Purle had given notice of his wish to speak on the report of the Head of Planning and Development relating to application 21/506183/FULL (Pinelodge Cottage, Somerfield Road, Maidstone, Kent), and attended the meeting remotely.

230. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

231. URGENT ITEMS

There were no update reports or verbal updates on this occasion.

232. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Brindle said that she was a Member of Boxley Parish Council, but she had not taken part in the Parish Council's discussions regarding

application 21/506322/FULL (Rose Cottage, Bearsted Road, Weaving, Maidstone, Kent) and intended to speak vote when it was considered.

233. DISCLOSURES OF LOBBYING

All Members present stated that they had been lobbied on the report of the Head of Planning and Development relating to application 21/505932/FULL (Wares Farm, Redwall Lane, Linton, Kent).

Councillor English stated that he had been lobbied on the report of the Head of Planning and Development relating to application 21/506183/FULL (Pinelodge Cottage, Somerfield Road, Maidstone, Kent).

234. EXEMPT ITEMS

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

235. 21/506322/FULL - ERECTION OF SINGLE STOREY REAR EXTENSION TO BUNGALOW, CONSTRUCTION OF DETACHED SINGLE GARAGE AND ERECTION OF SHED IN BACK GARDEN - ROSE COTTAGE, BEARSTED ROAD, WEAVERING, KENT

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

The Democratic Services Officer read out a statement on behalf of Mr and Mrs Le-Core, the applicants, who were unable to address the meeting remotely due to connectivity issues.

Councillor Hinder (Visiting Member) addressed the meeting remotely.

RESOLVED:

1. That permission be granted subject to the conditions and informative set out in the report, with:

An additional condition specifying that no external lighting shall be installed on the garage or the rear extension without the prior written consent of the Local Planning Authority; and

An additional condition requiring the installation of a minimum of one electric vehicle charging point within the site.

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: 8 – For 1 – Against 1 – Abstention

236. 21/505932/FULL - RETROSPECTIVE APPLICATION FOR ERECTION OF A TEMPORARY SINGLE STOREY EXTENSION TO EXISTING PACKHOUSE

INCLUDING ACCESS, PARKING AND ASSOCIATED WORKS - WARES FARM, REDWALL LANE, LINTON, KENT

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

Councillor Cresswell of Linton Parish Council and Mr Payne, agent for the applicant, addressed the meeting in person.

RESOLVED:

1. That temporary planning permission be granted subject to the conditions set out in the report, with:

An additional condition requiring the submission, approval and implementation of a colour scheme for the west elevation only of the extension to match the existing buildings;

An additional condition requiring details of the drainage system for the extension, including how it connects to the existing drainage system and any pollution control measures that may be required; and

An informative advising the applicant to discuss with KCC Highways the provision of a bus shelter at the bus stop near to the site having regard to Members' concerns for workers at the site.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional conditions and informative and to amend any other conditions as a consequence.

Voting: 9 – For 0 – Against 0 – Abstentions

Note:

Councillor English left the meeting during consideration of this application. He returned shortly afterwards and did not participate further in the discussion or the voting on the application.

Councillor Eves joined the meeting after consideration of this item. He said that he had no disclosures of interest or of lobbying.

237. 21/506183/FULL - RETROSPECTIVE APPLICATION FOR THE ERECTION OF A SIDE LINK EXTENSION TO GARAGE, CONVERSION OF GARAGE TO GYMNASIUM AND ERECTION OF A SUMMER HOUSE - PINELODGE COTTAGE, SOMERFIELD ROAD, MAIDSTONE, KENT

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

Councillor Purle (Visiting Member) addressed the meeting remotely.

RESOLVED: That consideration of this application be deferred until the next meeting of the Committee so that it can be assessed against the London Road Character Area Assessment SPD which is a material consideration in determining planning applications in the London Road area.

Voting: 11 – For 0 – Against 0 – Abstentions

238. APPEAL DECISIONS

The Committee considered the report of the Head of Planning and Development setting out details of appeal decisions received since the last meeting. The Development Manager advised the Committee that:

- The applicant was pursuing a judicial review of the Planning Inspector's decision to dismiss the appeal against the Council's refusal of application 18/500016/CHANGE (Tanner Farm Caravan Park, Goudhurst Road, Marden, Kent).
- The Council currently had a 74% success rate at appeal.

RESOLVED: That the report be noted.

239. MR JAMES BAILEY

The Chairman said that this was James Bailey's last meeting of the Planning Committee before taking up a new position elsewhere. He was very sorry to see him go and wished him every success in his new job and future career. Similar sentiments were expressed by other Members of the Committee.

RESOLVED: That the Committee's appreciation of Mr Bailey's services to the Council over the last few years be recorded.

240. DURATION OF MEETING

6.00 p.m. to 7.35 p.m.

Agenda Item 12

MAIDSTONE BOROUGH COUNCIL
PLANNING COMMITTEE
24 MARCH 2022

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.

APPLICATION	DATE DEFERRED
<p><u>20/505611/SUB - SUBMISSION OF DETAILS TO DISCHARGE CONDITION 18 - FOUL AND SURFACE WATER SEWERAGE DISPOSAL SUBJECT TO 14/502010/OUT - DICKENS GATE, MARDEN ROAD, STAPLEHURST, TONBRIDGE, KENT</u></p> <p>Deferred:</p> <p>(1) To ask the applicant to provide further information to clarify:</p> <p style="padding-left: 40px;">(a) The foul drainage flows from the site; and</p> <p style="padding-left: 40px;">(b) The volume of capacity being provided (by the holding tank) and how it will be maintained to ensure that it retains such capacity.</p> <p>(2) For the additional information to be reviewed by an independent expert drainage consultant.</p> <p>This is to satisfy the Committee that the volume of flows will be accommodated by the proposed works.</p>	22 July 2021
<p><u>21/505452/LBC - LISTED BUILDING CONSENT FOR WORKS TO RE-POSITION/RE-BUILD A SECTION OF RAGSTONE WALL (TO FACILITATE THE A20 ASHFORD ROAD AND WILLINGTON STREET JUNCTION CAPACITY IMPROVEMENT SCHEME) - MOTE PARK, A20 ASHFORD ROAD JUNCTION WITH WILLINGTON STREET, MAIDSTONE, KENT</u></p> <p>Deferred to:</p> <p>Seek clarification on why the listed wall needs to be re-positioned to accommodate the junction works;</p>	16 December 2021

Request a KCC Highways Officer to attend Planning Committee to clarify the predicted capacity improvements; and	
Clarify further the public benefits of the proposal.	

Agenda Item 13



Ordnance Survey - data derived from OS Premium

REFERENCE NO – 21/505036/FULL		
APPLICATION PROPOSAL Proposed change of use of land from agricultural to residential and erection of detached garage with ancillary accommodation above.		
ADDRESS Little Hawkenbury Barn, Hawkenbury Road, Hawkenbury, Tonbridge TN12 0DU		
RECOMMENDATION Grant planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • Visual impact is not significant due to the modest size of the new building and new garden area and the proximity to existing buildings. • The design and appearance of the proposed building is in keeping with the host dwelling and surrounding development including the neighbouring grade II listed dwelling. • The Environment Agency raised no objection subject to conditions 		
REASON FOR REFERRAL TO COMMITTEE Headcorn Parish Council committee call in if Officers were minded to recommend approval for the reasons set out at paragraph 5.01.		
WARD Headcorn	PARISH/TOWN COUNCIL Headcorn	APPLICANT Mr Lanckmans AGENT Architecture Design
TARGET DECISION DATE 01/04/2022 (EOT)		PUBLICITY EXPIRY DATE 12/10/2021

Relevant planning history:

- Application site



The application that is the subject of this report is identical to that granted planning permission on the 12.09.2017 under reference 17/503377/FULL. The detached garage with ancillary accommodation above is to the north of the parent dwelling, a converted agricultural building that fronts the main road.

This permission was for the “proposed change of use of land from agricultural to residential, and erection of a detached garage with ancillary accommodation above”. This earlier permission was never implemented and has now expired. The approved layout plan showing the existing parent dwelling to the south and the proposed building at the rear is provided adjacent to this text.

- Parent dwelling to the proposed ancillary accommodation



Permission was granted (reference 05/0738) for the conversion of a redundant agricultural barn to a dwelling on the 09.11.2005. The current application site is to the north of the red line boundary that is shown on the adjacent site location plan. This building is the parent dwelling.

Environment Agency raised no objection to the proposal following the removal of ground floor sleeping accommodation.

- Adjoining land at Little Hawkenbury to the north west of the current application site

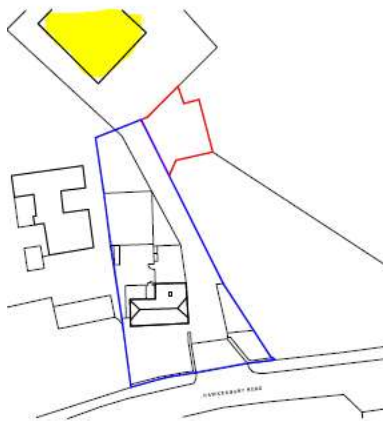


Prior Notification was given on the 04.09.2019 for the change of use of an agricultural building to a dwelling. The application considered transport and highways impact, contamination risk, flooding risk, design and external appearance, noise impact and whether the location or siting of the building made it otherwise impractical or undesirable as a dwelling. The reference is 19/503666/PNQCLA.

The site location plan is provided to the left of this text.

MAIN REPORT

1. DESCRIPTION OF SITE



- 1.01 The application site is located outside of any designated settlement within an isolated group of dwellings in the countryside.
 - 1.02 The site on the north side of Hawkenbury Road does not have any special landscape designation. The site falls within Flood Zone 3.
 - 1.03 The dwelling called 'Little Hawkenbury' (immediately to the west of Little Hawkenbury Barn) is grade II listed.
 - 1.04 The application site is a parcel of land 600 sqm in area that is outlined in red on the plan to the left of this text. The application site is currently grassed with a few trees.
 - 1.05 The proposed garden land and building adjacent to the driveway would be ancillary to the dwelling in the converted agricultural building (reference 05/0738) known as Little Hawkenbury Barn (outlined in blue on the above plan).
 - 1.06 The agricultural barn to the north of the application site (highlighted in yellow on the above plan) benefits from prior approval (19/503666/PNQCLA) granted in 2019 (must be completed before 18.09.2022). This approval allows for the change of use of this agricultural building to one dwellinghouse and for associated operational development.
- ### **2. PROPOSAL**
- 2.01 The application seeks planning permission for the change of use of a parcel of agricultural land (600sqm metres) adjoining the existing north-eastern boundary of the residential property at Little Hawkenbury Barn.
 - 2.02 The application involves the erection of a detached building. The building provides a domestic garage with two car parking spaces, workshop and storage at ground floor.
 - 2.03 At first floor ancillary accommodation ('ancillary' is anything that one could do normally in a standard house such as eat, sleep, sit etc) to Little Hawkenbury Barn

is provided. The first floor includes a living area, kitchenette, bathroom and bedroom.

- 2.04 Planning permission (17/503377/FULL) was granted on 12.9.2017 for the same proposal as currently proposed but this permission has lapsed.
- 2.05 The proposed building would be approximately 9m in width and 6.5m in depth. It would be of black timber construction and would be just 6m in height from the ground level to the highest part of the roof. The roof would be half hipped and covered in plain tiles to match the host dwelling.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

SS1- Maidstone borough spatial strategy

SP17- Countryside

SP18 Historic environment

DM1- Principles of good design

DM2- Sustainable design

DM3- Natural environment

DM4- Development affecting designated and non-designated heritage assets

DM8- External lighting

DM23- Parking standards

DM30- Design principles in the countryside

DM33- Change of use of agricultural land to domestic garden land

Aerial photograph



Supplementary Planning Documents:

Draft Headcorn Neighbourhood Plan

(The Final Examiner's Report on the Headcorn Neighbourhood Plan was published on 19 March 2017. In his report the examiner set out a number of failings that were found with the submitted neighbourhood plan. As a result of his conclusions the examiner recommended, in accordance with legislation that the neighbourhood

plan should not proceed to a local referendum. The neighbourhood plan has since been withdrawn. Presently, the Neighbourhood Planning Group is developing a new draft of the Headcorn Neighbourhood Plan. This is pre-Regulation 14 and an early plan stage. The Council continues to work with the Neighbourhood Planning Group to develop the Neighbourhood Plan). With the stage that the Draft Headcorn Neighbourhood Plan is currently at it carries little to no weight.)

Maidstone Landscape Character Assessment (2012-amended 2013)
Maidstone Landscape Capacity Study: Sensitivity Assessment (2015)

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

4. LOCAL REPRESENTATIONS

- 4.01 No representations received from local residents.

5. CONSULTATIONS

5.01 Headcorn Parish Council

Objection: recommend refusal and referred to MBC Planning Committee if the Planning Officer is minded to recommend approval for the reasons listed below.

- New development in Flood Zone 3 is not supported by the draft Neighbourhood Plan
- The Environment Agency need to be consulted or appropriate flood mitigation steps must be taken in construction.

6. APPRAISAL

Main issues

- 6.01 The key issues for consideration relate to:

- New building and ancillary link to the parent dwelling.
- Visual impact
- Heritage
- Flood Risk
- Residential amenity
- Highway safety implications
- Ecology and biodiversity

New building and ancillary link to the parent dwelling.

- 6.02 In general terms, the adopted Local Plan seeks to avoid new build self-contained dwellings located in unsustainable locations. The building proposed here is not a new build self-contained dwelling but an annexe to the main dwelling of Little Hawkenbury Barn.

- 6.03 In planning terms, annexes should normally have a number of characteristics that make them distinct from a new build self-contained dwelling. These characteristics are considered below.

a. Have a functional link with and be ancillary to the parent dwelling.

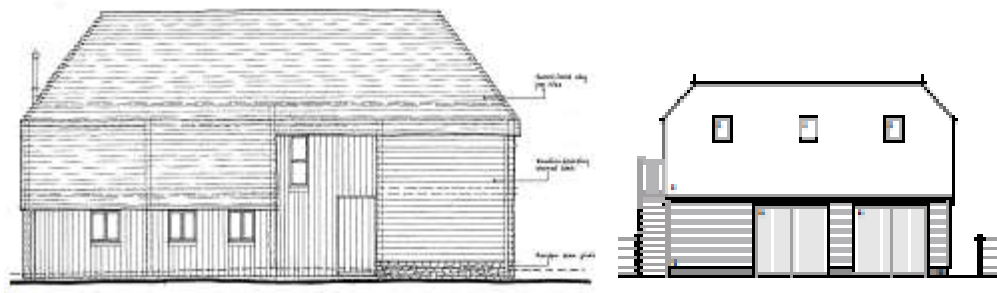
- 6.04 The occupants of the annexe would rely on facilities within the main dwelling Little Hawkenbury Barn. This includes the full sized kitchen facilities (a kitchenette is provided in the new building).

b. Have the same ownership as the parent dwelling.

- 6.05 The submitted certificate of ownership confirms that the application site is in the same ownership as Little Hawkenbury Barn. The applicant has stated the intention to use the annex accommodation as additional living space to accommodate his son.

- c. Within the curtilage of the parent dwelling and share its vehicular access.
- 6.06 The application site is in the curtilage of the parent dwelling and both the proposed garden land, and the new building will share the access from Hawkenbury Road.
- d. Well related to the parent dwelling.
- 6.07 The new building will be well related to Little Hawkenbury Barn. The majority of the ground floor of the proposed building will be occupied by two car parking spaces with the upstairs floorspace (living area, kitchenette, bathroom and bedroom) substantially smaller than Little Hawkenbury Barn. In view of the irregular shape of the existing site, it would be impractical to locate the proposed garage/annex closer to the host dwelling.
- e. Have no boundary demarcation or subdivision of garden areas.
- 6.08 The new building is located at the rear of the plot and the driveway, next to an existing vegetable garden.

North elevation of Little Hawkenbury Barn and west elevation of proposed building.



- f. Subservient to the scale of the parent dwelling
- 6.09 The north elevation of Little Hawkenbury Barn (05/0738) is located next to the west elevation of the building currently proposed above for comparison purposes only. The proposed new building is subservient to the scale of the parent dwelling.
- 6.10 In summary, the building proposed is not a new build self-contained dwelling but an annexe to the main dwelling of Little Hawkenbury Barn. A planning condition is recommended that seeks to ensure that this relationship between the proposed building and Little Hawkenbury Barn is maintained in the future.

Visual impact

- 6.11 Local Plan Policy DM33 seeks to protect the character and appearance of the countryside and consider the loss of the best and most versatile agricultural land. Policy SP17 states that development proposals in the countryside should not result in harm to local character and appearance. In addition, policy DM30 sets out that development should maintain or where possible enhance, local distinctiveness including landscape features.
- 6.12 Government guidance in the National Planning Policy Framework (2021 para. 174) states that local planning authorities should recognise the intrinsic character and beauty of the countryside and take into account the economic and other benefits of the best and most versatile agricultural land.
- 6.13 The application site is located in the countryside but is not on land with any special landscape designation. The application site is located in a group of dwellings between the parent dwelling (Little Hawkenbury Barn) and an agricultural barn to the north that has prior approval for conversion to residential. Given its relatively small area (600sqm), the location between approved residential uses and the screening provided by the existing built development, the impact of the proposed change of use to garden land on the wider landscape will be minimal.

- 6.14 Agricultural land is categorised between grade 1 (excellent quality) and grade 5 (poor quality) with grades 1, 2 and 3a considered the 'best and most versatile'. Whilst the application site is 'best and most versatile' (grade 2) agricultural land, given its small area of land it is not considered that the loss of this relatively small area of land represents a sustainable objection to the use of the land for garden purposes.
- 6.15 The proposed building is within an irregular shaped plot of land and the building has a rectangular footprint. The scale and design of the building is reflective of the appearance of the parent dwelling and the existing farm buildings adjoining the site.
- 6.16 After considering the site location and setting, and the sympathetic building scale and design, the proposal was found to be in keeping with the character of the area and in general accordance with policies DM30, DM33 and SP17.

Heritage

- 6.17 Policy SP18 of the Local Plan relates to the historic environment and requires that, inter-alia, the characteristics of heritage assets are protected, and design is sensitive to heritage assets and their settings. Policy DM4 of the Local Plan also relates to development affecting designated heritage assets and requires applicants to ensure that new development affecting heritage assets conserve, and where possible enhance, the significance of the heritage asset.
- 6.18 The NPPF requires the impact on the significance of a designated heritage asset to be considered in terms of either "substantial harm" or "less than substantial harm" as described within the NPPF. National Planning Practice Guidance (NPPG) makes it clear that substantial harm is a high test, and recent case law describes substantial harm in terms of an effect that would vitiate or drain away much of the significance of a heritage asset.
- 6.19 Where it is considered that a proposal will lead to "...less than substantial harm to the significance of a designated heritage asset...", NPPF states that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.20 When making a decision on all listed building consent applications or any decision on a planning application for development that affects a listed building or its setting, a local planning authority 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. Preservation in this context means not harming the interest in the building, as opposed to keeping it utterly unchanged.
- 6.21 The Grade II listed Little Hawkenbury Farm lies approximately 25m to the south-west of the site. Views of the proposal would be possible from the listed building and its setting. Given the proposed garage is sympathetic to the host dwelling, constructed with matching materials to other existing nearby buildings, and separated by a distance of approximately 25m, the proposed building would not have any harmful impact on the setting or significance of the listed building.
- 6.22 It is concluded that the proposal will lead to less than substantial harm to the significance of this designated heritage asset and the public benefits of the proposal outweigh any negative impact. The proposal would conserve the setting of the listed building.

Flood Risk

- 6.23 The site lies within Flood Zone 3 and the submitted planning application is supported by a Flood Risk Assessment. The Flood Risk Assessment states that in

terms of flood proofing, resilience and resistance it is intended to use resilient and robust materials at ground floor level.

- 6.24 The applicant has stated that any electrical or mechanical equipment such as electric boxes, switches, and outlets will be elevated or floodproofed to or above the flood protection level. In terms of external treatments, where possible ground levels will fall away from the existing building. The driveway will be constructed of permeable materials. It is anticipated that existing and proposed rainwater and surface water will be disposed of as existing. Sleeping accommodation will only be provided at first floor level.
- 6.25 The Environment Agency has stated that the proposal is acceptable subject to 4 conditions. Firstly, the development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) and no sleeping accommodation shall be provided at ground level. The second condition remediation strategy if any land contamination is found during development. The third condition requests the submission of drainage proposals and finally a restriction on infiltration of surface water drainage into the ground.
- 6.26 Subject to the above mitigation measures being secured by planning condition, the proposed development was found to be acceptable in relation to managing flood risk.

Residential amenity

- 6.27 Policy DM1 of the adopted Local Plan advises that proposals will be permitted where they "Respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development 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".
- 6.28 The proposed development is of a sufficient distance away from the neighbouring dwellings to avoid issues relating to loss of daylight or sunlight, loss of outlook or privacy or general amenity. The change of use to residential land alongside residential land is considered to be compatible use.

Highway safety

- 6.29 The site benefits from an existing vehicle access. The proposed garage providing two parking spaces is located to north of the parent dwelling with the building fronting the existing driveway. The existing access is suitable to accommodate any additional vehicle movements generated by the two parking spaces.

Ecology

- 6.30 Local Plan policy DM3 states: "*To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment*". It is a requirement of the NPPF and legislation that all proposals result in a net biodiversity gain.
- 6.31 There is no indication that the proposal will lead to any loss of significant wildlife habitat. A planning condition is recommended seeking ecological enhancements on the site.

7. CONCLUSION

- 7.01 For the reasons set out above, the proposed development is acceptable in its visual impact and will not result in any material loss of productive agricultural land while respecting the character and setting of the existing building and listed heritage. The Environment Agency has found the proposal acceptable subject to the mitigation measures in the FRA being secured by condition.

- 7.02 For the reasons set out in this report, the development proposals are in keeping with adopted planning policies and this report recommends approval 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:
Existing Block Plan, No. 02 received on 1 Oct 2021
Proposed Plans, No. 01 received on 8 Oct 2021
Site Location Plan, No. 05 received on 8 Oct 2021
Reason: To clarify which plans have been approved.
- (3) The materials to be used in the development hereby approved shall be as indicated on the approved plans. Reason: To ensure a satisfactory appearance to the development
- (4) The proposed accommodation shall remain as ancillary to the parent dwelling of Little Hawkenbury Barn with no subdivision between the two buildings and the proposed accommodation shall not form a self contained residential unit. Reason: the application has been considered only as ancillary residential accommodation.
- (5) The development hereby approved shall not commence above slab level until details of a scheme for the enhancement of biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through methods into the building structure by means such as swift bricks, bat tube or bricks to provide wildlife niches and additionally through provision within the site curtilage of measures such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors. The development shall be implemented in accordance with the approved details prior to first occupation of the approved building and all features shall be maintained thereafter. Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- (6) 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. The submitted details shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter. Reason: To safeguard the character and appearance of the countryside and in the interests of residential amenity.
- (7) The development hereby approved shall not commence above ground level until a landscape scheme designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012) has been submitted to and approved in writing by the local planning authority. The scheme shall use all native species as appropriate, no sycamores

and no plastic guards, and 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. It shall also provide details of replacement planting to mitigate any loss of amenity and biodiversity value, and include a plant specification, implementation details, a maintenance schedule and a [5] year management plan. [The landscape scheme shall specifically detail the tree line which is proposed to be retained and expanded as indicated by the applicants supporting statement and provide screening where possible to the dwellings to the north]. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- (8) The approved landscaping scheme shall be in place at the end of the first planting and seeding season (October to February) following first occupation of the building hereby approved. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first use of the building, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
Reason: In the interest of amenity.
- (9) A landscape and ecological management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaped and open areas, shall be submitted to and approved in writing by the local planning authority prior to the first use of the approved building. Landscape and ecological management shall be carried out in accordance with the approved plan.
Reason: In the interests of biodiversity, landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development
- (10) The flood mitigation measures set out in the Flood Risk Assessment from KDS, and drawing no 1 dated September 2021 shall be in place prior to the first occupation of the building hereby approved and maintained for the lifetime of the development.
1. Flood mitigation measures should be included in the final design of the development.
2. No sleeping accommodation shall be provided at ground floor level. Sleeping accommodation shall be on the first floor as shown on drawing from KDS, drawing no1 dated September 2021. Reasons: To reduce the risk of flooding to the proposed development and future occupants and to ensure safe access and egress from and to the site.
- (11) If during construction works, evidence of potential ground contamination is encountered, works shall cease and the site shall be 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.

Notwithstanding the above paragraph and in any event, 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

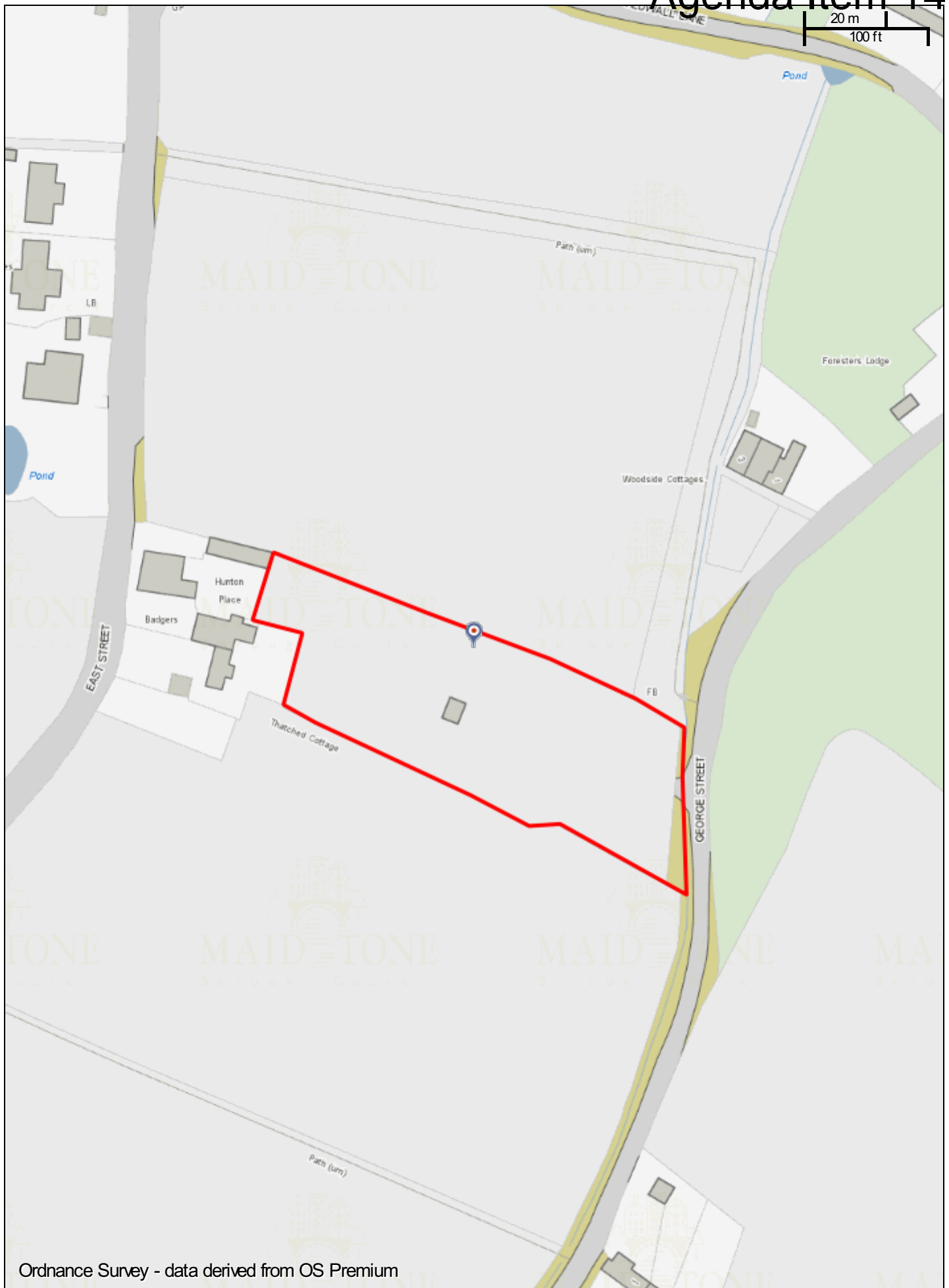
the necessary documentation detailing what waste materials have been removed from the site.

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: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with the National Planning Policy Framework (NPPF).

- (12) Prior to the commencement of development details of foul sewage and surface water disposal measures shall be submitted to and approved in writing by the Local Planning Authority, with the approved measures in place prior to first occupation of the building and retained permanently thereafter. Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph the NPPF.
- (13) No infiltration of surface water drainage into the ground. Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with the NPPF.

Case Officer: Michelle Kwok



Ordnance Survey - data derived from OS Premium



21/506545/FULL Wilsons Yard, George Street, Hunton, Kent, ME15 0RF

Scale: 1:1250

Printed on: 10/3/2022 at 9:32 AM by JoannaW

REFERENCE NO: 21/506545/FULL		
DEVELOPMENT: Six dwellings with associated allotments, landscaping, parking, communal landscaped areas, and other associated works (part retrospective).		
ADDRESS: Wilsons Yard George Street Hunton Kent ME15 0RF		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: Notwithstanding, the departure aspect of the proposal it has been established that the development overall will result in a significant environmental improvement. These benefits include: <ul style="list-style-type: none"> • The removal of the unsightly parking area and outbuildings associated with the light industrial use that will be replaced with open garden areas and new planting. • The heritage harm is 'less than substantial' harm and the development will reduce impact compared to the dilapidated state of the original building. The development will go some way to restoring the setting of the grade II listed Hunton Place. • With implementation of the proposed landscape masterplan and ecological enhancements, the proposal will be beneficial in terms of landscape and visual impacts and screen the negative impact of built form. • The proposal will make efficient use of this site with the building reflecting the size and proportions of the earlier prior approval applications. • The activity, noise and disturbance from a residential use including from vehicle movements is likely to be lower than a commercial use in the building. • Part of site is brownfield land and the development overall will result in significant environmental improvement. Identified harm is minimal and will be outweighed by benefits that the scheme will bring. • The development is acceptable in terms of all other material planning considerations. 		
REASON FOR REFERRAL TO COMMITTEE: Development is contrary to the adopted Local Plan.		
WARD: Coxheath/Hunton	PARISH COUNCIL: Hunton	APPLICANT: Ashurst Homes (Hunton) Ltd AGENT: Squires Planning
TARGET DECISION DATE: 25/03/22		PUBLICITY EXPIRY DATE: 03/03/22

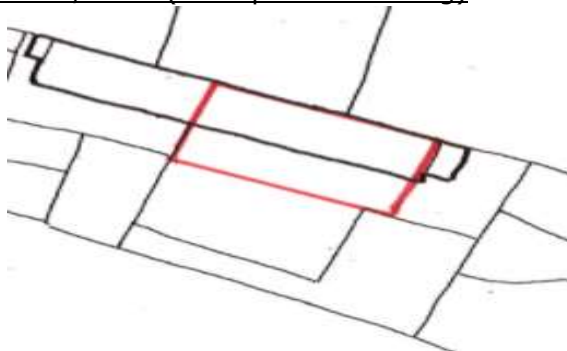
Relevant planning history:

- 21/500516 – Enforcement case: Construction works outside parameters allowed under 18/506016 & 19/501420 – Open (pending outcome of this application)
- 21/502131/SUB – Details for condition 1 (contamination) for 18/506016 - Approved
- 21/502130/SUB –Details for condition 1 (contamination) for 19/501420 - Approved
- 20/505447/SUB – Details for condition 1 (contamination) for 19/501420 - Refused

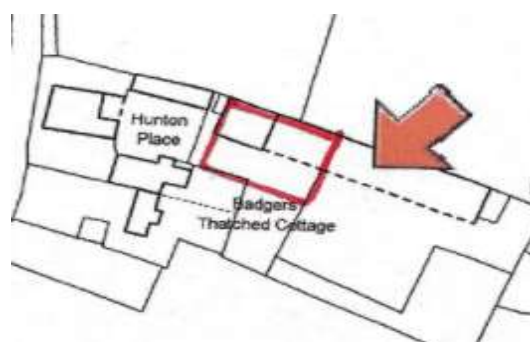
- 20/505446/SUB – Details for condition 1 (contamination) for 18/506016 - Refused
- 19/501420/PNQCLA– PN (Class Q: Agricultural) for 3 dwellings – Prior approval granted (required completion by 13.05.2022).
- 18/506016/PNPA – PN (Class PA: Light industrial) for 3 dwellings – Prior approval granted (required completion by 25.01.2022).

The plans below identify the site areas for the two prior approval applications that related to the conversion of the retained building on the site:

18/506016/PNPA (front part of building)



19/501420/PNQCLA (rear of site)



MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.02 The application site is located on the western side of George Street and a short distance from the junction with Redwall Lane to the north of the site. The adjacent property to the west of the site (Hunton Place) which fronts East Street is Grade II listed.
- 1.03 Prior to recent building works the site was occupied by a long building approximately 62 metres long and 9.4 metres deep. This building was of some age and was subdivided internally into five separate commercial units providing a mix of agricultural and light industrial uses. The steel framed building had a corrugated asbestos roof with corrugated sheeting and concrete blockwork walls.
- 1.04 The current application follows a planning enforcement complaint that found that construction works being carried out on site did not benefit from planning permission or prior approval. The photographs below are of the application site in 2016 and February 2022.

Application site in 2016



Application site in November 2021



- 1.05 The woodland opposite the site (across George Street) is designated ancient woodland. There are public rights of way in the proximity of the site, including PROW KM171 to the north of the site and PROW KM172 to the south.
- 1.06 The surrounding area is characterised by sporadic built form of differing scale, age and design, and undeveloped parcels of land and woodland.
- 1.07 For the purposes of the Local Plan the application site falls within the designated countryside. The site is in Flood Zone 1 and within an area of archaeological potential.

2. PROPOSAL

19/501420/PNQCLA (as approved)



18/506016/PNPA (as approved)



Front elevation currently proposed.



ELEMENT	DIFFERENCES BETWEEN PRIOR APPROVAL PLANS AND THE CURRENT APPLICATION
Building length	Building is the same length at 57.5m
Ridge height	Ridge height is the same
Building depth	Building is same depth at 9.3m
Eaves	Eaves of building are same. It is noted that when comparing plans, eaves of as built building appear higher than they previously were on original plans. When applicant took control of site it became apparent that previous plans were incorrect and building had to be remeasured.
External ground levels	Previously, the building was set into hillside. As part of the build, ground levels have been reduced immediately around the building at western end.
Dwelling widths	The units are broadly the same as previously.
Fenestration	Again, these have been removed and apart from retention of general architectural style few are as set out on prior approval plans. Alterations include: <u>Front elevation</u> <ul style="list-style-type: none"> - Addition of front doors (& canopies – although these are not yet built) - Large glazed panel are now all to left of each unit rather than being where previous openings were - Windows have been made more uniform - Relocation of and extra velux windows <u>Rear Elevation</u> <ul style="list-style-type: none"> - Windows on wall are broadly as approved, although they are not the same - The number of velux windows have doubled from 12 to 24

- 2.01 The application involves the development of this site to provide 6 terraced dwellings. The applicant advises "This application is in part retrospective, in that it

seeks to regularise development that has already taken place in constructing the dwellings, and part prospective, in that it also seeks the grant of permission for proposed development to enable the completion of development of the site, this includes the change of use of some of the land, and provision of suitable landscaping, parking, drainage system, bin stores, bike stores, tool store, allotments and turning head".

- 2.02 The submitted planning statement sets out the differences between the prior approvals and what is/will be undertaken on site. The table above provides a summary of the differences and extracts from the previously approved and current plans:
- 2.03 The applicant further advises *"The new dwellings retain the overall form and dimensions of the original building and retain a rural utilitarian character, being finished with oak weatherboarding above a plain brick plinth, to replace the original timber-clad steel framed building. The new natural slate roof replaces the previous corrugated asbestos roof and features Velux windows and PV solar panels. The homes are currently "wind and watertight" and are largely fitted out internally, although works have currently ceased on site, at the request of Maidstone Borough Council while this application is pending".*
- 2.04 The proposal includes 16 vehicle parking spaces (each with an electric charging point) and two communal lockable bike stores. A communal bin store is also provided, and a tool shed (with living roofs). A sustainable urban drainage scheme will be implemented in the form of a wildlife pond which would attenuate water during rainfall. The wildlife pond and proposed landscaping will provide a biodiversity net gain on the site. The development will make use of the existing vehicle site access.

3. POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2017): SS1, SP17, SP18, DM1, DM2, DM3, DM4, DM5, DM8, DM23, DM30
- National Planning Policy Framework (2021) & National Planning Practice Guidance
- Maidstone Landscape Character Assessment (amended 2013)
- Landscape Capacity Study (Jan 2015)
- Regulation 19 Maidstone Local Plan
- Natural England Standing Advice
- Para 99 of Govt. Circular (ODPM 06/2005) Biodiversity & Geological Conservation - Statutory Obligations & Their Impact Within the Planning System
- Natural Environment and Rural Communities Act (2006)

Regulation 19 Local Plan

- 3.01 Following recent approval by members, the Council's Reg 19 Local Plan has recently been out to public consultation. This document is a material planning consideration, however at this time individual policies are not apportioned much weight.
- 3.02 The weight to be attached to individual policies will be adjusted upwards or downwards depending on whether objections have been received. The current programme involves submission to the Planning Inspectorate in late Spring 2022.

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Following consultation on this application (including advertising as a departure from the Local Plan) four representations have been received making the following (summarised) comments:
- Land contamination details are not available, and it is not known how buried contamination will be affected;
 - There is support for the balancing pond for surface water discharge and the proposed landscaping;
 - There is support for electric vehicle charging points and community orchard; and rooflights will cause glare.

5. CONSULTATIONS

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

- 5.01 **Councillor Webb:** Wishes to see application reported to Planning Committee if officers are minded to recommend refusal for the following reasons : *Application will provide environmental and social benefits to site and wider Parish which are material considerations in determination of this application and, in my opinion, sufficient to outweigh any negative impacts. As such it is my view that permission should be granted.* (NB: Officer recommendation is in line with the wishes of Cllr Webb but case is reported to members as it is a departure from the Local Plan).
- 5.02 **Hunton Parish Council:** Raises no objection to application.
- 5.03 **Conservation Officer:** Raises no heritage objection to application.
- 5.04 **KCC Highways:** Raises no objection to application.
- 5.05 **Environmental Protection Team:** Raises no objection to application.
- 5.06 **KCC Biodiversity Officer:** Raises no objection to application.
- 5.07 **Landscape Officer:** Raises no arboricultural objection.
- 5.08 **KCC Archaeological Officer:** No representations received.
- 5.09 **Forestry Commission:** Ancient woodland is irreplaceable, referring to standing advice.
- 5.10 **Natural England:** Raise no objection to application.
- 5.11 **Kent Fire and Rescue:** Raises issue of emergency access (see main report).

6. APPRAISAL

- 6.01 Local Plan policy SP17 states (inter alia) that development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area. The application was found to be a departure from policy SP17 in that the proposed building results in harm and the proposal is not in full accordance with other Local Plan policies.

6.02 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and after acknowledging the departure from the plan it needs to be considered whether material considerations are present that suggest that such a departure would be justified. The material considerations include the following:

- Policy DM5 and brownfield land
- Design, appearance, the countryside and landscape
- Heritage
- Neighbour amenity
- External lighting
- Standard of proposed residential accommodation.
- Access and servicing transport and traffic
- Ecology and biodiversity.

Policy DM5 and brownfield land

6.03 The middle part of the application site was previously in light industrial use (see Area B in the image below) and as a result was within the standard NPPF definition of brownfield land. Most of the front part of the site (Area C in the image below) was not brownfield land and the rear part of the application site (Area A in the image below) was in agricultural use so was also outside the standard definition of brownfield land.

Extent of previously developed land



(Google Earth image dated April 2020)

A = Rear of site that was in agricultural use

B = Middle of site that was in light industrial use (with parking area)

C = Front part of site that largely appeared to be undeveloped land

6.04 Local Plan policy DM5 is only relevant to the parts of the site that was previously brownfield land. This policy allows for the redevelopment of brownfield land in the countryside subject to certain criteria.

6.05 Policy DM 5 of the local plan states "Exceptionally, the residential redevelopment of brownfield sites in the countryside...." will be permitted where they meet the following criteria a) The site is not of high environmental value. b) The 'redevelopment' will result in a significant environmental improvement. c) The density reflects the character and appearance of the area (DM12). d) the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.

6.06 To assist in the interpretation of policy DM5 the supporting text in the Local Plan (paragraph 6.37) sets out six 'key' considerations to be used in assessing the

redevelopment of brownfield sites in the countryside. These considerations are as follows:

- The level of harm to the character and appearance of an area.
- The impact of proposals on the landscape and environment.
- Any positive impacts on residential amenity.
- What sustainable travel modes are available or could reasonably be provided.
- What traffic the present or past use has generated; and
- The number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.

Consideration of DM5 a) The site is not of high environmental value. b) The 'redevelopment' will result in a significant environmental improvement.

- 6.07 The two key questions here are whether the former commercial building on the site was of high environmental value, and whether the 'redevelopment' will result in a significant environmental improvement to the site.
- 6.08 The former building on the site had no special architectural or historical interest. The building was of some age and was subdivided internally into five separate commercial units providing a mix of agricultural and light industrial uses. The steel framed building had a corrugated asbestos roof with corrugated sheeting and concrete blockwork walls. In this context the building was not of high environmental value.
- 6.09 The local plan does not include a definition of what constitutes significant environmental improvement, however the guidance in the supporting text to DM5 (paragraph 6.37) refers to an assessment of the impact of the proposals on the landscape and the environment and any positive impacts on residential amenity.
- 6.10 The design of the proposed building has sought to retain the positive features of the current functional building including the rhythm and spacing of the openings across the frontage. The submitted proposal will improve the character and appearance of the site in a number of ways including the new landscaping on the site and the new wildlife pond.
- 6.11 The removal of the former agriculture and light industry uses, and the resulting activity, traffic and disturbance will have a positive impact on residential amenity for nearby occupiers. These changes using paragraph 6.37 of the local plan as a guide are of a magnitude to be described as significant improvements. The proposal is in line with DM5 a) and b).

Consideration of DM5 c) The density reflects the character and appearance of the area (DM12).

- 6.12 Policy DM12 advises "All new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. Development proposals that fail to make efficient use of land for housing, having regard to the character and location of the area, will be refused permission".
- 6.13 The submitted proposal, includes the use of the site that was formally in commercial use for the provision of 6 family residential units of a good standard. The provision of the six residential units will make efficient use of this site with the building reflecting the size and proportions of the former commercial building on the site. The density of the proposal is acceptable in this location and the development is in line with DM5c).

Consideration of DM5 d) the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village

- 6.14 In applying policy DM5, the key characteristics or questions to be considered are set out at paragraph 6.37 of the Local Plan. These are, what sustainable travel modes are available or could reasonably be provided; what traffic the present or past use has generated; and the number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.
- 6.15 With poor facilities for pedestrians and the nature of local roads it is likely that walking will not be a safe or viable option for future occupiers. It is however possible to make provision for other sustainable travel modes in the terms of cycling and electric vehicles as part of the development. The submitted proposal show the provision of 16 electric charging points linked to the 16 car parking spaces that are provided for occupiers, along with two communal lockable bike stores.
- 6.16 Planning conditions are recommended to ensure that the electric vehicle charging points and cycle storage facilities are provided prior to first occupation. A condition is also recommended requesting measures to encourage sustainable travel choices by future occupiers (could be vouchers for cycle purchase, travel vouchers etc).
- 6.17 The supporting text to policy DM5 refers to a comparison between existing and proposed uses in terms of traffic movements and the distance of the actual trips if there are no sustainable alternatives. The previous building was in use for agriculture and light industry use. The vehicle trips associated with the six proposed residential units would be generally less than the trips generated by the former uses of the building.
- 6.18 The distance of vehicle or cycle trips from the application site would be relatively short with the site approximately 2 kilometres from the Local Plan designated larger village of Coxheath and 1.3 kilometres from Hunton. Paragraph 4.21 of the Local Plan advises that "The five larger villages ...have fewer services than rural service centres but can still provide for the day-to-day needs of local communities and the wider hinterland". With this policy wording referring to the 'wider hinterland' acknowledging the wider benefits outside the defined larger village settlement boundaries. Paragraph 4.21 goes on to say "All villages provide a nursery and primary school; a shop (including a post office); at least one place of worship, public house and community hall as well as open space provision. All have a range of local employment opportunities".
- 6.19 In conclusion, whilst the site is not accessible to Coxheath on foot it is possible to improve the accessibility by sustainable modes with a number of measures. These include ensuring that electric charging points are provided, ensuring that cycle storage facilities are provided and by putting measures in place through a condition to encourage sustainable travel choices by future occupiers. The residential use would generate fewer vehicle trips than the former uses on the site. The private vehicle trips to local facilities and public transport would be relatively short journeys.
- 6.20 This brownfield site in the countryside is not on a site of high environmental value, the proposal will result in significant environmental improvement, the density reflects the character and appearance of the original site, and the site can reasonably be made, accessible by sustainable modes to a larger village and has the benefit of removing a use that would have higher trip generation . After these considerations the proposed redevelopment of the brownfield land on the site is broadly in accordance with policy DM5 of the adopted Local Plan.

Design, appearance, the countryside and landscape

- 6.21 Policy SP 17 of the Local Plan provides advice on the countryside which is defined as all those parts of the plan area outside the designated settlement boundaries on the policies map. Development proposals in the countryside will not be permitted unless they accord with other policies in this plan, and they will not result in harm to the character and appearance of the area.
- 6.22 There are public rights of way in the proximity of the site, including PROW KM171 to the north of the site and PROW KM172 to the south. The development introduces a new building on the site that inevitably will cause harm to the character and appearance of the countryside, particularly given the public views of the building (albeit of varying degrees of visibility) from George Street (at the entrance); from the two public footpaths to the north (KM171) and south (KM172) of the site; from East Street (to west); and from Redwall Lane (to north). The aerial photograph on the next page has been annotated to show approximate distances between the application site and nearby public roads/footpaths.
- 6.23 The introduction of the replacement building would cause harm to the character and appearance of the countryside with the site visible in public viewpoints (accepted that there is general policy support for the reuse of the brownfield land that occupies part of the site). The proposal provides a terrace of six dwellings in a rural, unsustainable location with the parking area; storage facilities; allotments; and turning head further domesticating the appearance of the site.
- 6.24 Whilst the proposed building will be visible and result in landscape harm the unsightly parking area and outbuildings associated with the light industrial use will be replaced with open garden areas and new planting. Existing boundary landscaping will be retained. It should also be noted that whilst there is no lawful light industrial building on the site, the commercial use remains lawful and so the principle for a new light industrial building if proposed in the future would be difficult to resist and this in itself would cause some harm to the character and appearance of the countryside.

Distances from the site to nearby public roads/footpaths.



- 6.25 Policy DM 30 (Design principles in the countryside) states that proposals which would create high quality design, satisfy the requirements of other policies in this plan and meet a number of stated criteria will be permitted. These criteria are considered below.

i. 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.

- 6.26 The design and appearance of the submitted proposal has sought to respect and enhance the positive aspects in the appearance of the former commercial building. The similarities and differences between the former building and the building currently proposed are set out earlier in this report. The introduction of residential use will be more compatible with adjacent uses and there will be visual improvements to the site with the introduction of landscaping.

ii. Impacts on the appearance and character of the landscape would be appropriately mitigated.

- 6.27 The applicant has submitted a landscape plan in support of the planning application and proposed ecological enhancements. The implementation of the landscape plan and ecological enhancements will mitigate adverse impact on the appearance and character of the countryside and will result in a beneficial impact.

iii. Proposals would not result in unacceptable traffic levels on nearby roads ...or the erosion of roadside verges.

- 6.28 The proposal will not result in unacceptable traffic levels on nearby roads and is likely to reduce the potential for damage to roadside verges as the removal of the commercial use will reduce the need for commercial vehicles to visit the application site and reduce trip generation.

iv. Where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area.

- 6.29 The submitted proposal includes a new building on the footprint of the former building. The proposal also includes new landscape screening.

v. Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

- 6.30 The applicant has advised "The new dwellings retain the overall form and dimensions of the original building and retain a rural utilitarian character, being finished with oak weatherboarding above a plain brick plinth, to replace the original timber-clad steel framed building. The new natural slate roof replaces the previous corrugated asbestos roof and features Velux windows and PV solar panels...". The proposal complies with this requirement.

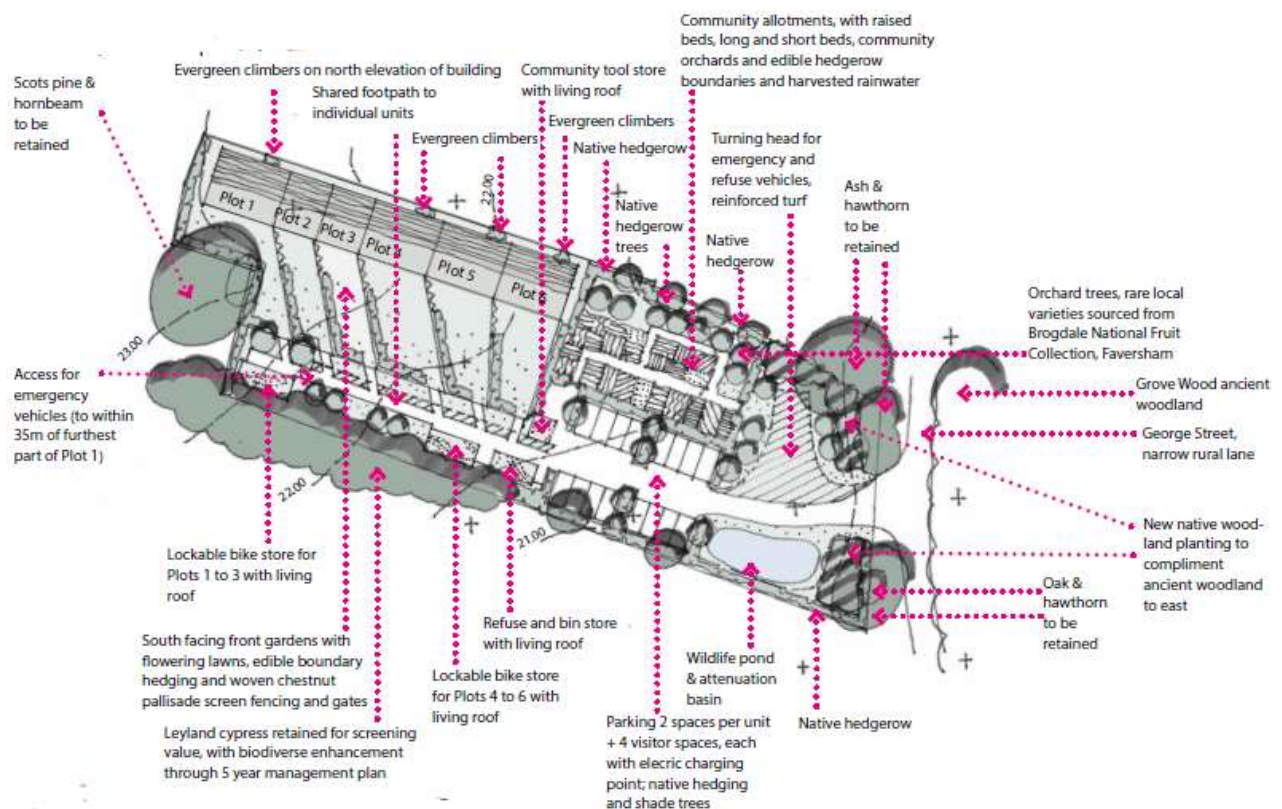
Vi Account should be taken of the Kent Downs AONB Management Plan and the Maidstone Borough Landscape Character Guidelines SPD

6.31 The Maidstone Landscape Character Assessment identifies most of the application site as falling within the Low Weald Yalding Farmlands (Area 38). The landscape guidelines for this area are to 'CONSERVE' and a summary of actions are as follows:

- Consider generic guidelines for Low Weald
- Conserve largely undeveloped rural landscape and remote quality of existing development
- Conserve rural setting of traditional buildings and farmhouses
- Conserve distinctive ragstone walling
- Conserve undeveloped character of the landscape
- Avoid linear infill development along roads
- Soften impact of agricultural buildings and fruit equipment storage areas with native planting.

6.32 The Landscape Capacity Study (Jan 2015) has the Low Weald Yalding Farmlands as being assessed as being of 'HIGH' overall landscape sensitivity and 'sensitive to change', and it states (inter alia): *Development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with existing. Other development could be considered to support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.*

Landscape Masterplan



6.33 The application includes a Landscape Assessment prepared by the applicant. Overall, the Council's Landscape Officer considers this assessment to be acceptable in terms of general principles. This assessment concludes (in summary): "Landscape effects and visual effects of development have been considered in this report; development is located in a discreet site and retains footprint and massing of former single storey agricultural building; 6 proposed residential units would have no adverse visual or landscape effects on their surroundings. With

implementation of proposed landscape masterplan and ecological enhancements, the landscape and visual impacts will both be slightly beneficial”.

Heritage

- 6.34 In making decisions on all listed building consent applications, or any planning application for development that affects a listed building, or its setting, a local planning authority must have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest. This obligation, found in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1), applies to all decisions concerning listed buildings.
- 6.35 Policy SP18 of the Local Plan relates to the historic environment advising that the characteristics, distinctiveness, diversity and quality of heritage assets will be protected and, where possible, enhanced to ensure their continued contribution to the quality of life in the borough. This aim will be achieved by the council encouraging and supporting measures that secure the sensitive restoration, reuse, enjoyment, conservation and/or enhancement of heritage assets, in particular designated assets identified as being at risk, to include securing the sensitive management and design of development which impacts on heritage assets and their settings.
- 6.36 Policy DM4 of the Local Plan relates to development affecting designated and non-designated heritage assets. Applicants will be expected to ensure that new development incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and, where appropriate, its setting.
- 6.37 NPPF advises “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”. The NPPF adds “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification....”.
- 6.38 In assessing the level of harm that may occur and the planning balance NPPF advises “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.
- 6.39 The adjacent property to the west of the site, Hunton Place, is Grade II listed. The Conservation Officer has considered the application and has commented as follows: *“Development is to re-clad existing industrial building with a slate roof and oak weatherboarding above a brick plinth. Amount of fenestration will be increased substantially from existing arrangement and roof lights and solar panels are also proposed. This work has already been carried out as a part of process to convert building to residential use. Refurbished building will undoubtedly cause harm to setting of Hunton Place, but I would class it as is ‘less than substantial’ harm which reduces impact compared to existing building in its dilapidated state. I take view, in line with the conservation officer under 16/506756, that development will go some way to restoring setting of Hunton Place and I would therefore, from a heritage viewpoint, recommend approval”.*
- 6.40 In accordance with the NPPF, the ‘less than substantial’ harm needs to be weighed against the public benefits of the development. In this instance, there is public

benefit in providing additional housing and the landscaping and biodiversity enhancements. These benefits are given significant weight in the assessment of this application.

- 6.41 Policy DM4 of the Local Plan states that where development is proposed for a site which includes or has the potential to include heritage assets with archaeological interest, applicants must submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 6.42 Whilst the application site is in an area known to have archaeological interest. The proposed building is on the footprint of the original building. The original building was also relatively modern, and its construction is likely to have destroyed anything of interest that was present in the ground. It is for these reasons that no further archaeological information is required to support the current application.

Neighbour amenity

- 6.43 Local Plan policy DM 1 states that proposals which would create high quality design will be permitted where they respect the amenities of occupiers of neighbouring properties. Development should not result in, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion. Built form should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties. Noise and disturbance.
- 6.44 The current proposal will remove the existing commercial use and introduce a residential use that conforms with the use of neighbouring buildings. The activity, noise and disturbance from a residential use including from vehicle movements is likely to be lower than a commercial use in the building. The proposal would not have an adverse impact upon the living conditions of any local resident in terms of privacy, light, outlook and being overbearing.

External lighting

- 6.45 Policy DM 8 states that external lighting will be permitted where it can be demonstrated that the lighting is the minimum amount necessary and that the design and specification of the lighting would minimise glare and light spillage. The lighting scheme should not be visually detrimental to its immediate or wider setting, particularly intrinsically dark landscapes.
- 6.46 The application site is in a group of other buildings including several other residential uses. Whilst visually any new external lighting will be seen in the context of these other buildings and uses, in order to avoid amenity issues a planning is recommended that seeks the submission of details of any lighting to be installed on the site.
- 6.47 In conclusion the submitted proposal is acceptable in relation to maintaining neighbour amenity and is in accordance with policy DM1.

Standard of proposed residential accommodation.

- 6.48 Local Plan policy DM1 and paragraph 127 of the NPPF states that proposals will be permitted where they create high quality design and provide adequate residential amenities for future occupiers of the development by ensuring that development is not exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion.
- 6.49 The proposed accommodation provides a good standard of residential accommodation with adequate internal space for the intended function of individual

rooms and spaces. The submitted plans show that the accommodation is provided with sufficient daylight, sunlight and outlook for future occupiers.

- 6.50 The Environmental Protection Team raised no objection to the development in terms of noise; air quality; and land contamination. *Notwithstanding this, in terms of contamination they have commented as follows: "Whilst we are broadly satisfied with the investigation into contaminated land, this has identified elevated levels of hydrocarbons and heavy metals on sections of the site that require remediation. This is primarily in the form of a capping layer which has not been specified in detail. Other measure including vapour protection membranes and protected channels for water supply pipes are recommended. The report also identifies that further investigation of the allotment area is required and that a discovery strategy should be implemented".*
- 6.51 In response to the concerns expressed by the Environmental Protection Team planning conditions have been recommended for the submission of a remediation method statement (RMS) within 3 months of an approval and a closure report on the completion of the development.
- 6.52 In conclusion the submitted proposal is acceptable in relation to the standard of accommodation and is in accordance with Local Plan policy DM1 and the NPPF.

Access and servicing transport and traffic

- 6.53 Local Plan policy DM 1 states that proposals which create high quality design will be permitted, where they safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access.
- 6.54 The existing vehicle access to the site is from George Street and this access is retained as part of the submitted proposal. The existing access is suitable including in relation to its width, driver sight lines and the future servicing of the accommodation.
- 6.55 The bin storage is shown on the plan and will be located close to, and accessible for collection. In terms of refuse vehicles, through the former commercial use of the site the retained access has been shown to be suitable for HGV's.
- 6.56 Local Plan DM21 seeks to ensure that the vehicle trips generated by a use can be adequately accommodated on the road network. The vehicle trips associated with the efficient operation of the commercial use on the application site would be more than those associated with the proposed residential accommodation.
- 6.57 It is acknowledged that the site is not in a sustainable location. A planning condition is recommended requesting the submission of measures to promote sustainable travel choices by future occupiers of the accommodation. This could include information given to new occupiers, including public transport timetables.
- 6.58 Kent Fire and Rescue have commented as follows: *"It would appear the 45m hose laying distance, as required under B5 of Building Regs 2010, cannot be achieved to furthest dwellings. 45m distance may be extended up to 90m on provision of a domestic automatic water fire suppression system. Applicants should be aware that in event of permission being granted, Fire and Rescue Service would require emergency access to be established".* If the application were to be approved, a suitable informative would be added to notify the applicant of this.

- 6.59 In conclusion the submitted proposal is acceptable in relation to access and servicing transport and traffic and is in accordance with Local Plan policies DM1 and DM21.

Car parking

- 6.60 Local Plan policy DM 23 states that the car parking for residential development will take into account the type, size and mix of dwellings and the need for visitor parking. Parking shall secure an efficient and attractive layout of development whilst ensuring the appropriate provision of integrated vehicle parking.
- 6.61 The 16 proposed car parking spaces are sufficient for the 6 proposed houses. The local plan advises that new developments should ensure that proposals incorporate electric vehicle charging infrastructure. The proposal also includes 16 electric vehicle charging points. In conclusion the submitted proposal is acceptable in relation to car parking and is in accordance with Local Plan policy DM 23 and Appendix B.

Cycle parking

- 6.62 Local Plan policy DM 23 states that cycle parking facilities on new developments will be of an appropriate design and sited in a convenient, safe, secure and sheltered location. The layout of the site incorporates two cycle parking buildings. A planning condition is recommended seeking the provision of the cycle storage shown to be in place prior to first occupation. In conclusion with the recommended condition the submitted proposal is acceptable in relation to cycle parking and is in accordance with Local Plan policy DM 23.

Ecology and biodiversity

- 6.63 Local Plan policy DM3 states: "To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment ...where appropriate development proposals will be expected to appraise the value of the borough's natural environment through the provision of...an ecological evaluation of development sites...to take full account of the biodiversity present, including the potential for the retention and provision of native plant species".
- 6.64 The KCC Biodiversity Officer has reviewed the application and has commented as follows: *As much of site has been cleared, accompanying ecology report highlights that a previous 2015 ecology survey of site identified "...Site as supporting a small range of habitats including semi improved neutral grassland and tall ruderal vegetation (comprising approx. 25% of Site) and boundary trees..."*.
- 6.65 The KCC Biodiversity Officer advises "A reptile survey was also carried out but found no evidence of reptiles. Under section 40 of the NERC Act (2006), and para 180 of NPPF, biodiversity must be maintained and enhanced through planning system. Additionally, in alignment with para 180 of NPPF, implementation of enhancements for biodiversity should be encouraged. Although clearance works are unlikely to have significantly impacted protected species, in absence of compensatory habitat, it is likely development would not have achieved biodiversity net-gain. However, as noted in accompanying ecology report, a number of ecologically-beneficial features have been incorporated into development which is likely to offset biodiversity loss. This includes:
- Native species hedge/tree planting.
 - Provision of green walls/roofs.
 - Installation of integrated bat bricks.
 - Creation of an orchard (with traditional Kentish apple varieties).

As such, we are satisfied that if all proposals in ecology report (as reflected in submitted landscape masterplan) are enacted, biodiversity net-gain can be achieved”.

- 6.66 One of the principles of the NPPF (para 180) is that: *Opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.* With this considered, a condition is recommended seeking biodiversity enhancements on the site (demonstrating biodiversity net gain). The condition requests enhancements through integrated methods into the design and fabric of the building (i.e. swift bricks; bat tiles/tubes; and bee bricks). With these conditions the submitted proposal is acceptable in relation to ecology.

Fallback consideration

- 6.67 Six dwellings were approved through the prior notification process under 19/501420 and 18/506016. The rearmost building related to agricultural use and the frontmost building a light industrial use. The fallback position (what could happen on the land if the current planning application was not approved), is a material consideration in the determination of this planning application (see *Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314*).
- 6.68 The site photo below was taken in June 2021 and shows the extent of works that have been carried out on the site. It is evident that the rearmost part of the building had been removed and that there was significant works carried out to the frontmost part of the building.

Site photo June 2021



- 6.69 The submitted Planning Statement confirms that much of the fabric of the original light industrial building had been taken down, such as the roof, exterior walls, windows and doors, and that the steel frame was dismantled and then reassembled and incorporated into the building works.
- 6.70 Given the level of works carried out on the site, it is considered that the current application does not benefit from permitted development rights because it is a matter of fact and degree that the development on the site is a new build and not a conversion. As such, the principle for the erection of six new dwellings in this

rural location is not established as the previous grant of the two prior approvals (18/506016 & 19/501420) is no longer in place.

- 6.71 In summary, under 19/501420 and 18/506016, prior approval was granted for six dwellings on the site. It is considered that the development carried out on the site is tantamount to a new build, as opposed to the conversion of the existing buildings. As such, the fall-back position of implementing the previous grant of the two prior approvals, or indeed relying on the permitted development rights attached to the original buildings, does not now exist as the previous buildings no longer exist.

Other matters

- 6.72 The application site is within Flood Zone 1 and there is no objection in terms of flood risk. Surface water will be disposed of via a sustainable drainage system and foul sewage will be disposed of by mains sewer. No objection is raised on these matters and no further details are required.
- 6.73 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010 and it is considered that the application would not undermine the objectives of this Duty.
- 6.74 The proposed development is CIL liable. The Council has adopted a Community Infrastructure Levy and began charging on all CIL liable applications, approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and the 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/ PLANNING BALANCE

- 7.01 As the extent of works carried out on site are substantially greater than the works that were approved under the prior approval decisions the prior approval decisions do not provide any fall-back position. There are also no relevant permitted development rights.
- 7.02 The development would not generate a materially different level of trips by car than the previous agricultural and light industrial uses of the site. Whilst the site is in an unsustainable location the similar trip generation will reduce the overall impact of the proposal.
- 7.03 The proposed building does cause harm to the character and appearance of the countryside, and it has been established that part of the site is not brownfield land and new housing here is as a result is contrary to the provisions of the Local Plan.
- 7.04 Notwithstanding, the departure aspect of the proposal it has been established that the development overall will result in a significant environmental improvement. These benefits include:
- The removal of the unsightly parking area and outbuildings associated with the light industrial use that will be replaced with open garden areas and new planting.
 - The heritage harm is 'less than substantial' harm and the development will reduce impact compared to the dilapidated state of the original building. The development will go some way to restoring the setting of the grade II listed Hunton Place.

- With implementation of the proposed landscape masterplan and ecological enhancements, the proposal will be beneficial in terms of landscape and visual impacts and screen the negative impact of built form.
- The proposal will make efficient use of this site with the building reflecting the size and proportions of the earlier prior approval applications.
- The activity, noise and disturbance from a residential use including from vehicle movements is likely to be lower than a commercial use in the building.
- Part of site is brownfield land and the development overall will result in significant environmental improvement. Identified harm is minimal and will be outweighed by benefits that the scheme will bring.
- The development is acceptable in terms of all other material planning considerations.

7.05 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and after acknowledging the departure from the plan it is considered that material considerations are present that justify a departure from the Local Plan.

7.06 On balance the harm that had been identified would be outweighed by the benefits that the scheme will bring. On this basis, a balanced recommendation of approval is therefore made.

8.0 RECOMMENDATION - GRANT planning permission subject to the following conditions:

1. The development hereby permitted shall cease and all buildings, structures, hard surfacing, fencing, equipment and all other materials brought onto the land for the purposes of the development shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (vi) below:

(a) Within 3 months of the date of this decision a scheme, hereafter referred to as the Site Development Scheme, shall have been submitted for the written approval of the local planning authority. The Site Development Scheme shall include details of:

- (i) ecological enhancements, to include integrated methods into the design and fabric of the buildings hereby approved, to include swift bricks, bat tubes and bee bricks; and the provision of a wildlife pond. The development shall be implemented in accordance with the approved details prior to the first occupation of the dwellings and all approved features shall be maintained as such thereafter.
- (ii) how decentralised and renewable or low-carbon sources of energy will be incorporated into the development. The approved details shall then be installed and operational prior to first occupation of the dwellings and shall be maintained as such thereafter.
- (iii) a landscaping scheme (in accordance with submitted plans/details and the principles established in Council's adopted Landscape Character Assessment) that shall include details of species, plant sizes, proposed numbers and densities, planting plans and arrangements for maintenance; new native woodland planting to compliment nearby Ancient Woodland; the creation of an onsite orchard (with traditional Kentish apple varieties); provision of 'living roofs' for bicycle, refuse and tool stores; new 100% mixed native hedgerow planting; native tree planting; and the retention of the existing trees (as shown on drawing ref: Tree Constraints Plan TCP-01).

- (iv) all fencing, walling and other hard boundary treatments. The development shall be carried out in accordance with the approved details before the first occupation of the dwellings and shall be maintained as such thereafter.
- (v) a remediation method statement (RMS) based on the site investigation results and the detailed risk assessment based on the submitted Ecologia report. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The scheme shall thereafter be implemented as approved.
- (vi) a timetable for implementation of the Site Development Scheme.

(b) If within 11 months of the date of this decision the local planning authority refuse to approve the Site Development Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(c) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.

(d) The approved Site Development Scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved Site Development Scheme specified in this condition, that Scheme shall thereafter be maintained/retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside; and in the interests of residential amenity; for ecological enhancement/biodiversity gain; to ensure an energy efficient form of development; and in the interests of public health.

2. Pursuant to condition 1, the approved landscaping scheme associated with the individual dwellings shall be in place at the end of the first planting and seeding season following completion of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following completion of the final unit. Any planting which, within a period of 10 years from the completion of the development die, are removed, or become seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme. Reason: To safeguard the character and appearance of the countryside.
3. Prior to the first occupation of the development hereby approved, on completion of the works a Closure Report shall be submitted and approved by the local planning authority. The closure report shall include full verification details as set out in the approved remediation method statement pursuant to condition 1v, and this should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean and the scheme shall thereafter be implemented as approved. Reason: In the

interests of public health.

4. The development hereby approved shall be carried out in accordance with the external materials, as shown on the submitted plans, and shall be maintained as such thereafter.

Reason: To safeguard the character and appearance of the countryside.

5. The development hereby approved shall be carried out in accordance with the submitted GRS arboricultural report (GRS ref: GRS/TS/AIP/TPP/AIA/185/21). Reason: To safeguard the character and appearance of the countryside.

6. No development including site clearance and demolition shall commence until details of tree protection in accordance with the current edition of BS 5837 has been installed on site. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

7. No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are submitted to and approved in writing by the local planning authority. Any details to be submitted shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. Any details to be submitted shall also follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interests of residential amenity and to protect bats.

8. Foul and surface water disposal associated to the development hereby approved shall be carried out in accordance with the submitted details and shall be implemented prior to the first occupation of the development hereby permitted and maintained as such thereafter. Reason: To ensure satisfactory measures for foul and surface water disposal.
9. The development hereby approved shall provide a minimum of sixteen operational electric vehicle charging points for low-emission plug-in vehicles prior to the first occupation of any dwelling and the electric vehicle charging points shall be maintained as such thereafter. Reason: To promote reduction of CO2 emissions through use of low emissions vehicles.
10. The vehicle parking spaces, as shown on the submitted plans, shall be provided prior to occupation of the development hereby approved and shall be permanently retained for parking thereafter and not used for any other purpose. Reason: In the interest of highway safety and parking provision.

11. The bike stores, as shown on the approved plans, shall be installed on the site and properly useable for the secure storage of bikes prior to the first occupation of any dwelling hereby approved and shall be permanently retained as such thereafter and not used for any other purpose. Reason: In the interests of sustainability.
12. Notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development within Schedule 2, Part 1 Classes A, AA, B, C, D, and E shall be carried out. Reason: To ensure a high quality appearance to the development and to conserve and enhance the significance and setting of Lenham Conservation Area; and in the interests of residential amenity.
13. Prior to first occupation of the development hereby approved measures to encourage sustainable travel choices by future occupiers shall have been submitted to and approved in writing by the Local Planning Authority, the measures shall be in place prior to first occupation and maintained for the lifetime of the development. Reason: In the interests of sustainable travel and pollution prevention.
14. The development hereby permitted shall be carried out in accordance with the following approved drawings/documents:
 - Proposed block plan (1:500); 1491 P002E; P001E; P005E; P006E; P007E; P100E; P003E; and P004E; 344-P01C; and WG1330/201 Rev C3
 - Planning and Heritage Statement (Dec 2021)
 - Landscape Assessment (Nov 2021)
 - Highway Technical Note (Nov 2021)
 - GRS Arboricultural Report (ref: GRS/TS/AIP/TPP/AIA/185/21) (Nov 2021) including Tree Protection Plan TL-01; Tree Constraints Plan TCP-01; and Tree Protection Plan TPP-01
 - Preliminary Ecological Appraisal Report & Biodiversity Enhancement Strategy (Nov 2021)
 - Ecologia contamination letter report (Nov 2021)

Reason: For the avoidance of doubt and in the interests of proper planning.

Informatives

1. The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. 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. Kent Fire and Rescue have advised that the 45m hose laying distance, as required under B5 of Building Regs 2010, cannot be achieved to the furthest away dwellings. 45m distance may be extended up to 90m on provision of a domestic automatic water fire suppression system. Applicants are reminded that the Fire and Rescue Service would require emergency access to be established. Fire Service access and facility provisions are a requirement under B5 of the Building Regs 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.
3. It is the responsibility of applicant to ensure, before development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by Highway Authority.

Case Officer: Kathryn Altieri

Agenda Item 15



Ordnance Survey - data derived from OS Premium

REFERENCE NO - 21/503063/FULL		
APPLICATION PROPOSAL Retrospective application for change of use of land and field shelter to provide events venue, including erection of covered seating areas to rear and sides of field shelter, erection of woodcutters cabin to be used in conjunction with events venue, and use of mobile facilities including 2no. store rooms, 2no. marquees, 3no. toilet blocks, 1no. disabled WC, 2no. shepherds huts, 4no. shipping containers, with associated car parking and woodland walkway.		
ADDRESS The Dreys Squirrel Woods Rumstead Lane Stockbury Kent ME9 7RT		
RECOMMENDATION Application Permitted		
SUMMARY OF REASONS FOR RECOMMENDATION The development is a well-established business for weddings/events and overnight temporary accommodation which, by its nature, necessitates a rural location which is key to the rustic setting and desired ambience of the business model. The site is visually contained within the woodland, and neither the activity nor associated structures are readily seen from outside the site so there is no harm to the character and appearance of the AONB/countryside. Conditions are suggested so that it does not cause harm, remains appropriate in scale and appearance for the sensitive location, can be satisfactorily integrated into the local landscape and does not cause light pollution or harm residential amenity. Woodland and Grassland Management Plan conditions are suggested and also a condition that the structures associated with the use be removed should the use cease.		
REASON FOR REFERRAL TO COMMITTEE The use in the Countryside and AONB is not one specifically supported by Policy SP17 of the MBLP.		
WARD North Downs	PARISH/TOWN COUNCIL Stockbury	APPLICANT Mr & Mrs Keulemans AGENT Bloomfields
TARGET DECISION DATE 31/03/22		PUBLICITY EXPIRY DATE 03/03/22

Relevant Planning History (incl adjoining sites)

Longton Wood
Stockbury Valley
17/504923/FULL Part retrospective and part proposed application for change of use of woodland to airsoft activity centre and erection of associated structures (retrospective) and proposed change of use for camping, filming, re-enacting, woodcraft, Duke of Edinburgh and life skills.
Allowed on Appeal 23.04.2021

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 This countryside site of approx. 3.7ha is east of Detling Hill and lies on the upper plateau of the Kent Downs Area of Outstanding Natural Beauty. The application site contains part of the Ancient Woodland (AW) of Squirrel Wood and is surrounded by AW on all boundaries.

- 1.02 The vehicular access to the site is off the western side of Rumstead Lane, between the dwellings of Foxdene and Squirrel Lodge along a single width track. After approx 160m of undulating topography, it reaches the 50-space car parking area (0.24ha) in the northern part of the application site. The car park is approx. 80m from the events venue and is comprised of tarmac scalpings/Type 1. It lies in an area that kept clear long term for electricity pylons.
- 1.03 There is approx. 1.67ha of sweet chestnut woodland between the car park and the main part of the venue through which there is a winding hessian covered path approx. 130m long with circular area in a clearing (for woodland blessings). The main venue buildings and glamping accommodation is in a larger pastoral clearing of approx. 1.67ha in the southern part of the application site. This path area is currently lit with strings of LED festoons.
- 1.04 The public footpath KH76 runs for 130m E-W through the site past the car park and a bridleway KH89 runs along the SW boundary of the site. On the other side of KH89 lies Longton Wood, which is an airsoft activity centre used for camping, filming, re-enacting, woodcraft, Duke of Edinburgh and life skills.
- 1.05 The site lies in Flood Zone 1 and partly over a groundwater source protection zone 3. It lies in an Area of Archaeological Potential.

2. PROPOSAL

- 2.01 The site has an MBC granted premises licence (first granted in 2016) for a variety of activities including performance/dance, indoors and outdoors live music generally until 2:00am Mon- Sat and 22:30 Sundays.
- 2.02 The application seeks retrospective planning permission for a change of use from equestrian/motocross/camping to an events venue with overnight glamping, associated structures, car parking facilities and woodland walkway. The current commercial use commenced as a glamping site in 2011. Since about 2016, the other structures were added, a licence was granted and it has been used for weddings, blessing, celebrations, parties, glamping and camping, as well as an educational forest/rural visitor premises for schools, Kent Police and other private businesses.
- 2.03 There are 5 FT and 3 PT staff. As part of the wedding package, between 22 and 30 extra staff are brought in for events. Between March to the end of October up to fifteen additional staff are brought in, in addition to external local suppliers.
- 2.04 The structures cover 361sqm in total and are made of timber and/or metal or are mainly canvas tents/marquees. The structures are placed upon padstones, rest on the land or are erected on a temporary basis. There are no conventional buildings with footings. The main structures are all single storey:
- Main Marquee (teepee style) 220sqm footprint
 - Reception Marquee (teepee style) 120 sqm footprint
 - Field shelter (dates from 1960s) extended to form bar 240 sqm footprint
 - Covered timber seating areas
 - Shepherd's huts x2
 - Woodcutter's cabin x1
 - 12 Bell Tents (removed off-season)
 - Shipping containers x 5 (Catering and storage areas)
 - Mobile WC/shower block x4

- 2.05 In terms of noise control, the venue has been set up by a specialist sound engineer and that the sound levels are capped with automatic monitoring with phone notifications if the set sound levels are exceeded.
- 2.06 The ecological appraisal concludes minimal impact on the habitats and potential species. In terms of the AW, most of the structures lie beyond the buffer of 15m, except for the Woodcutters Cabin, pedestrian walkway and vehicular track within the woodland, and the car parking area. Footfall through most of the woodland is discouraged. No protected species issues were identified but there is scope for biodiversity enhancements.
- 2.07 The Arboricultural Report concludes that woodland at the site is "Plantation on Ancient Woodland" and there is no evidence of severe impact to trees. No new impermeable hard surfaces exist and all objects, surfaces and temporary structures are temporary and removable. The report recommends measures to further reduce impact.
- 2.08 The Flood Risk Assessment submitted concludes that there are no adverse impacts to the surrounding area in relation to flood risk. Surface water will drain to an existing watercourse and foul sewage is to holding tank and then removed from site.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 SS1, SP17, DM1, DM3, DM8, DM21, DM30, DM38
Kent Minerals and Waste Local Plan 2013-30 as amended by Early Partial Review (2020)
Kent Downs AONB Management Plan (2021-2026) SD1, SD3, SD7, SD8, LLC1, WT1, WT7, AEU5, AEU 14
Landscape Character Assessment: Hucking Dry Valleys Local Character Area
Regulation 19 Local Plan Review

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 No representations received from local residents
- 4.02 Cllr Garten: Requires a condition imposed to control lightening in the AONB.

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)

KCC (Highways and Transportation)

- 5.01 No objection

KCC (PROW):

- 5.02 Public Rights of Way KH76 footpath runs along the eastern boundary and is on the main track to the site and vehicles must give way to people walking the footpath.

UK Power Networks

- 5.03 Close proximity to a substation.

Southern Water Services

- 5.04 No comments

Environment Agency

- 5.05 No comments

KCC (Flood and Water Management)

- 5.06 No objections

Kent Police

- 5.07 No objection

KCC Ecology

- 5.08 Potential for protected species. There will be no deteriorating effects on the woodland with measures to avoid and/or minimise potential. The grassland is a habitat of principal importance/BAP habitats, for which there is biodiversity duty in the NERC Act. A grassland management plan must be informed by a detailed botanical survey of the grassland, undertaken at the correct time of year and by a suitably experienced ecologist.

- 5.09 Habitat management will be sufficient for Biodiversity Net Gain. Only recommended tree planting is pedunculate oak. Suggest restriction of any additional lighting.

Kent Downs AONB Unit

- 5.10 Application would conflict with paragraph 176 of the NPPF and potentially contrary to paragraph 180 which seeks to protect Ancient Woodland. The proposal would also be in conflict with policy SP17 of Maidstone's Local Plan as well as the aims and objectives of the Kent Downs AONB Management Plan, in particular principles SD1, SD3, SD7, SD8, LLC1, WT1, WT7, AEU5 and AEU 14 and fails to comply with management objectives set out for the relevant local Landscape Character Areas.

Natural England

- 5.11 Unlikely significant impacts on statutory designated nature conservation sites or landscapes. Standing Advice on Ancient Woodland. The development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006.

Forestry Commission

- 5.12 Provide details of Government Policy and information on the importance and designation of Ancient Woodland.

Environmental Protection

- 5.13 Original Comments: The site is in a rural area, and traffic noise is unlikely to be significant. No air quality issues but suggest installation of Electric Vehicle charging points for a sustainable travel option. No indication of land contamination nor of high radon concentrations. No record of any known Private Water Supplies in the vicinity. Currently it appears that chemical toilets are being used.
- 5.14 Further Comments: There are no noise complaints on our system relating to this site and the noise dampening effect of the trees helps prevent noise breakout. A noise management plan could be required.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Countryside/AONB
- Ancient Woodland/Ecological Impact
- Highways Matters

Countryside/AONB

- 6.02 The site lies in the countryside where Policy SP17 requires no harm to character and appearance, great weight to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty and account taken of the Kent Downs AONB Management Plan and the Maidstone Borough Landscape Character Guidelines SPD.
- 6.03 The NPPF in terms of the AONB states that great weight should be given to conserving and enhancing landscape and scenic beauty due to its highest status of protection. The conservation and enhancement of wildlife are also important, and the scale and extent of development should be limited. Within AONBs, 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 should include an assessment of the local economy; meeting any need in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. The NPPG states that development within nationally protected landscapes needs to be located and designed to reflect status as landscapes of the highest quality.
- 6.04 Design requirements of policies DM1 and DM30 are that new buildings should be unobtrusively located and well screened by vegetation reflecting the landscape character of the area.
- 6.05 The site appears to have been a glamping site since 2011 and then significantly expanded in about 2016. It is thus now a well-established business with Premises Licences having been granted by MBC since 2016.
- 6.06 Policy DM38 specifically addresses the impact of camping sites in the countryside: being permitted if no unacceptable loss in the amenity of the area or impact on nearby properties and acceptable appearance of the development, the site would be unobtrusively located and well screened by existing or proposed vegetation and would be landscaped with indigenous species.
- 6.07 The tests of the NPPF in terms of the AONB are met because the development has provided for a fairly unique and relatively unobtrusive enterprise for wedding or woodland blessings and similar social events in a naturalistic setting and so a countryside location is inevitable. The site is visually contained within the woodland, and neither the activity nor associated structures are readily seen from outside the site other than in glimpsed views from public rights of way. The main visual impact on the PROW is the view of the car park from KH76.
- 6.08 The agent includes a long list of other users which are public benefits as so qualify as evidence that the development is in the public interest including Local schools/groups, scouts; Kent Police dogs and tactical firearms training, use by filmmakers, musicians, a local cancer charity.

- 6.09 In terms of the AONB's tranquillity, (principle SD7 of the Kent Downs AONB Management Plan), there are other noisy uses locally such as greyhound training and a waste transfer station as well as the traffic on the A249 itself. The land to the north-west (Longton Wood) was allowed on appeal for an airsoft activity centre. The application site itself was previously used by unauthorised motocross. Therefore, on balance I do not consider that the use is unacceptable in terms of impact on existing levels of tranquillity. The Environmental Protection Officer raises no concerns on noise and the measures described in the application to control noise can be subject of a condition. There are no records of noise complaints despite the business having been established for a number of years operating in its present form since 2016 (although the Covid19 pandemic would have interrupted its more recent use).
- 6.10 The proposal would not be in conflict with policy SP17 in my view as it does not harm the character and appearance of the countryside. It is a low density use overall and has an unobtrusive layout and relatively sensitive materials, design and appearance. The site is well screened and visually contained from the wider landscape by virtue of Ancient Woodland and other mature landscaping so there are no long distance visual impacts at all. In terms of medium distance impacts, those parts of the main event venue that are glimpsed from the 2 PROWs are set some distance away (over 100m) and have limited visual harm due to the screening provided by mature trees and natural habitat around the site. Otherwise, the venue has been provided sensitively, with a low impact upon landscape character, the ancient woodland and biodiversity. In terms of short distance views, the vast majority of the structures on the site are chattels or can otherwise be easily removed. The main materials of canvas and timber are naturalistic and in-keeping with the rustic setting. The least sensitively designed elements of the development visually are the storage containers but these are screened by fence panels and their non-permeance (compared to say more aesthetically pleasing formal storage buildings) is beneficial as it means that they can be removed very easily once no longer needed.
- 6.11 In allowing the nearby activity centre at Longton Wood in the countryside and AONB, the Inspector considered the impact of that leisure use on the landscape value of the AONB as per SP17, concluding that activity had a limited impact, being visually contained within the woodland, and neither the activity nor associated structures being readily seen from outside the site other than in glimpsed views from public rights of way. Similar conclusions are reached in regard of this development.
- 6.12 Tourist/holiday accommodation can be intrusive in the countryside and should normally only occupy well screened locations. This site is generally well screened by virtue of the extensive ancient woodland tree belts. The access point at the junction with Rumstead Lane is visible but does not need altering as visibility is acceptable.
- 6.13 Whilst it is large, the car park is on land that would have the same appearance in being an all-weather open area needed for managing the woodland, the openness dictated by the power line running through. The surfacing is relatively low key and fully permeable. On most days of the week and in the off-season, there will be very few or no vehicles parked so the impact is acceptably low.
- 6.14 The public use of the 2 PROW may allow visibility by the public of the car park and southern part of the venue respectively, but the form, low density and generally rustic materials of the development and its temporary and intermittent nature minimises visual harm. The limited visual harm from the car park can be reduced further by a scheme to improve screening.
- 6.15 The scheme in terms of the overnight "glamping" accommodation complies with policy DM38. The business has grown from glamping to add the events and

weddings in a sensitive manner and is still relatively low-key. However, if planning permission is granted, conditions are needed to ensure that this low-key nature continues.

- 6.16 Overall, I am of the view that the tests in the NPPF and MBLP have been met for this major development and that Policy SS1 that requires conservation of the AONB and protection of rural character, is not breached.
- 6.17 In terms of policies DM1 and DM30 the use of natural and rustic materials at this development is a key feature throughout, eg coppiced wood from site, painted timber or reclaimed metal. The canvas marquees and bell tents can easily be removed from site, leaving only concrete pads in relation to the former. The bell tents are completely removed seasonally and rotated at the venue in relation to demand. Whilst there are some less sensitive structures such as storage cabins, these are screened by timber fence panels and overall, I am satisfied that policies DM1 and DM30 are complied with

Ancient Woodland/Ecological Impact

- 6.18 Paragraph 180 of the NPPF, Policy DM3 and Principles WT1 and WT7 of the Kent Downs AONB Management protect against the loss or deterioration of Ancient Woodland as an irreplaceable habitat unless there are wholly exceptional reasons, and a suitable compensation strategy exists. The arboricultural and ecological reports satisfy that there is no harm to the AW and the KCC Ecology officer, Natural England and the Forestry Commission raise no objections in this regard.
- 6.19 Priority habitats of grassland and woodland will be enhanced and restored by Grassland and Woodland Management Plans being submitted for approval.
- 6.20 A condition will be needed on lighting to ensure is it not harmful to biodiversity nor intrusive to intrinsically dark landscapes to accord with policies DM3 and DM8 of the MBLP and principle SD7 of the Kent Downs AONB Management Plan.

Highways Matters

- 6.21 The site is accessed via Rumstead Lane for a distance of 1km from the A249. Rumstead Lane is narrow with passing places. However, the proposal does not result in any unacceptable levels of traffic and overall, there are no highways concerns with the proposal in terms of Policy DM21.

Other Matters

- 6.22 The PROW officer has no concerns with the scheme, and I am satisfied that it does not breach the related principles AEU5 and AEU14 of the Kent Downs AONB Management Plan.
- 6.23 There are no residential properties sufficiently close that would suffer a direct loss of residential amenity except in regard of the traffic comings and goings at the entrance which passes close by 2 houses. However, the use has been in operation as a wedding/events venue for several years without complaint from any residents of Rumstead Lane and no objections to this planning application have been received from local residents or from the Parish Council.
- 6.24 The Regulation 19 Local Plan Review has limited weight at this stage and does not alter the policy context of the proposal as described above.

PUBLIC SECTOR EQUALITY DUTY

- 6.25 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The development is a well-established business for weddings/events and overnight temporary accommodation which, by its nature, necessitates a rural location which is key to the rustic setting and desired ambience of the business model.
- 7.02 The site is visually contained within the woodland, and neither the activity nor associated structures are readily seen from outside the site so there is no harm to the character and appearance of the AONB/countryside.
- 7.03 Conditions are suggested so that it does not cause harm, remains appropriate in scale and appearance for the sensitive location, can be satisfactorily integrated into the local landscape and does not cause light pollution or harm residential amenity. Woodland and Grassland Management Plan conditions are suggested and also a condition that the structures associated with the use be removed should the use cease.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 01 B Shepherds Hut Plan and Elevations
 - 02 C Shower Hut Floor Plan and Elevations
 - 03 C Toilet Hut Floor Plan and Elevations
 - 04 D Field Shelter and Bar Plan and Elevations
 - 06 C Reception Marquee Plan and Elevations
 - 05 B Main Marquee Plan and Elevations
 - 07 B Shipping Container Plan and Elevations
 - 08 B Toilet Plan and Elevations
 - 09 B Woodcutters Cabin Plan and Elevations
 - 10 B Shipping Container (10ft) Plan and Elevations
 - 14 A Shipping Container (30ft) Floor Plan and Elevations
 - 12 F Proposed Block Plan
 - 15 B Store Room and Disabled WC Floor Plans and Elevations

Reason; For the avoidance of doubt.
- 2) The land and structures shall be used only for purposes detailed in the application documents. The glamping tents hereby approved shall not be erected prior to the first day in March in any calendar year and shall be dismantled prior to the end of October in the same calendar year. If the use hereby approved ceases, all structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 3 months of

cessation of the use.

Reason: To safeguard the character and appearance of the countryside and AONB.

- 3) The overnight accommodation hereby approved shall be used solely for the purposes of short stay (28 day maximum per person per annum) holiday accommodation and not as a permanent unit of accommodation nor a person's sole or main place of residence. The operators of the site 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: The site and location is not suitable for the provision of residential accommodation and in order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.
- 4) No additional paths or hard surfaces shall be installed and no additional structures shall be erected. No additional chattels, tents or marquees shall be stationed within the site for longer than an event's duration or 72 hours, whichever is the shorter.
Reason: In the interests of the open landscape quality of the AONB and to protect trees from possible root damage
- 5) The Noise Management Measures detailed in the Planning Statement hereby approved shall be complied with for all events involving music, films, plays, dances.
Reason: In the interests of the tranquillity of the AONB and local residential amenity.
- 6) The use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (vi) below:
 - i) Within 3 months of this planning permission, details and a timetable of screening of the car park area from the Public Rights of Way shall be submitted for the written approval of the Local Planning Authority.
 - ii) Within 3 months of this planning permission, a woodland management plan (WMP) and timetable for its implementation shall be submitted for the approval of the local planning authority. The content of the WMP will include the following:
 - a) description and evaluation of features to be managed
 - b) woodland plan showing identifiable compartments and indicating habitat variants
 - c) aims and objectives of management
 - d) prescriptions for management actions, including special measures for protected species/sensitive habitat areas
 - e) a list of locally appropriate native species that will be used in the planting
 - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
 - g) details of the body or organisation responsible for implementation of the plan
 - h) ongoing monitoring and remedial measures.

iii) Within 3 months of this planning permission, a grassland management plan (GMP) and timetable for its implementation shall be submitted for approval by the local planning authority. The content of the GMP shall include the following:

- a) description and evaluation of features to be managed
- b) grassland plan informed by detailed botanical survey
- c) aims and objectives of management
- d) prescriptions for management actions, including special measures for protected species/sensitive habitat areas
- e) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
- f) details of the body or organisation responsible for implementation of the plan
- g) ongoing monitoring and remedial measures

iv) Within 11 months of the date of this decision, the WMP and the GMP shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Schemes or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

v) If an appeal is made in pursuance of (iv) above, that appeal should have been finally determined and the submitted Scheme should have been approved by the Secretary of State.

vi) The approved Landscape Screening, WMP and GMP shall have been carried out and completed in accordance with the approved timetable.

Reason: To ensure ecological impacts of the development are mitigated and Biodiversity Net Gain is secured.

- 7) The existing external lighting is shown on "Email re Existing Lighting" received 07.03.22. No additional external lighting, whether temporary or permanent, shall be placed or erected within the site unless details have been submitted to and approved in writing by the local planning authority. Any details to be submitted shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the approved details and retained as such thereafter.

Reason: To minimise impact on the dark skies of the AONB.

- 8) Within 1 month of the date of this decision the following arboricultural measures will be put in place, as detailed in the Arboricultural Report: thicker ridged matting pinned in place; exclusion of guests from Root Protection Areas by barriers; prevention of vehicular access beyond packed surface; utilisation of banksperson when backing in larger vehicles. These measures shall be retained thereafter.

Reason: To reduce harm from root compactation on trees within the site.

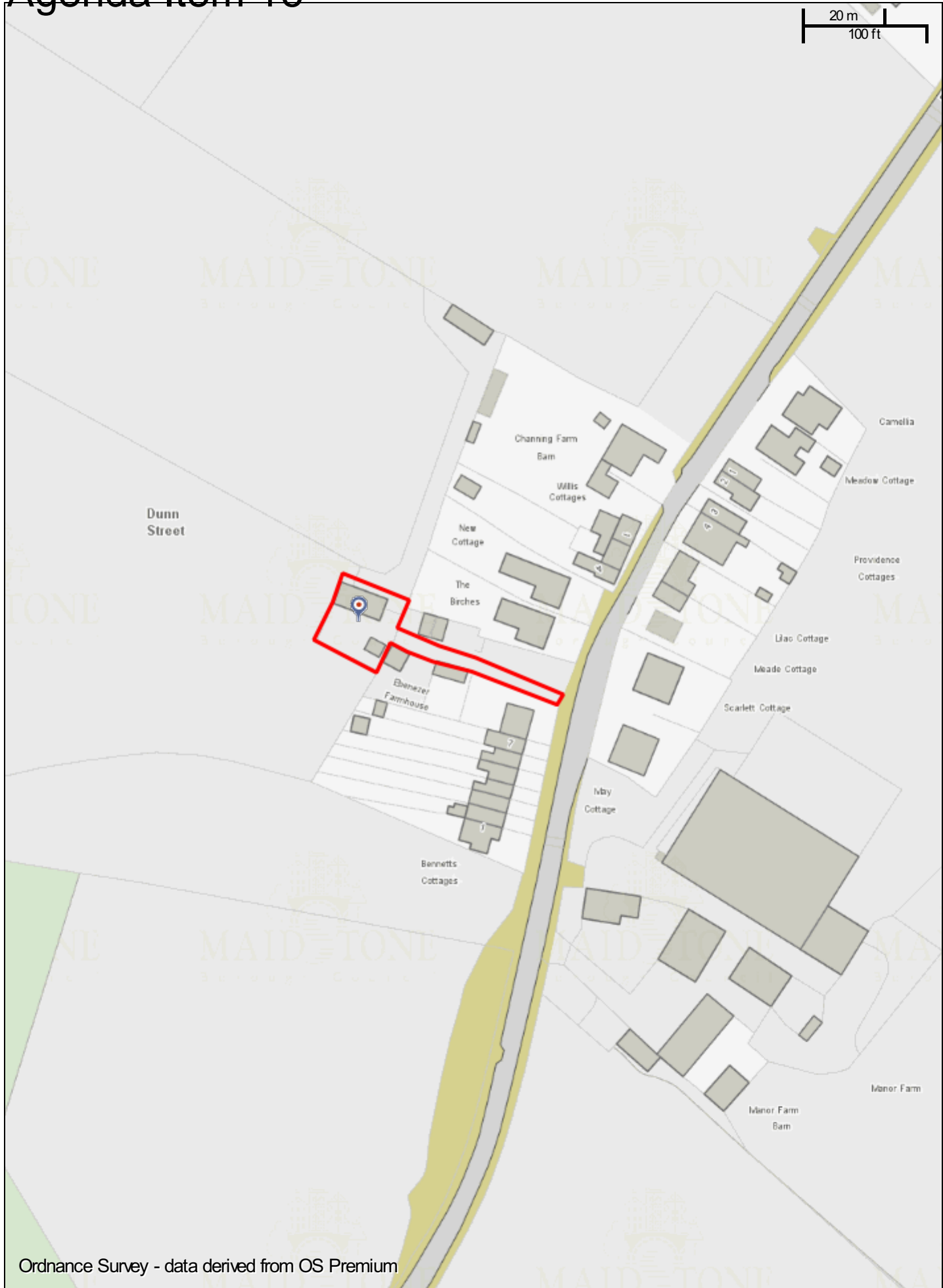
INFORMATIVES

- 1) UK Power Networks advise that the proposed development is in close proximity to a substation and if within 6m of the substation, then they are notifiable under the Party Wall etc. Act 1996. The Applicant should provide details of the proposed works and liaise with the Company to ensure that appropriate protective measures and mitigation solutions are agreed in accordance with the Act.
- 2) No works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:
 - The applicant pays for the administration costs o The duration of the closure is kept to a minimum
 - Alternative routes will be provided for the duration of the closure.
 - A minimum of six weeks notice is required to process any applications for temporary closures.

The Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.
- 3) Any new tree planting should be limited to pedunculate oak.
- 4) Measures should be taken to reduce risk of soil contamination by fuels or oil leaks or spillages.

Case Officer: Marion Geary

Agenda Item 16



Ordnance Survey - data derived from OS Premium

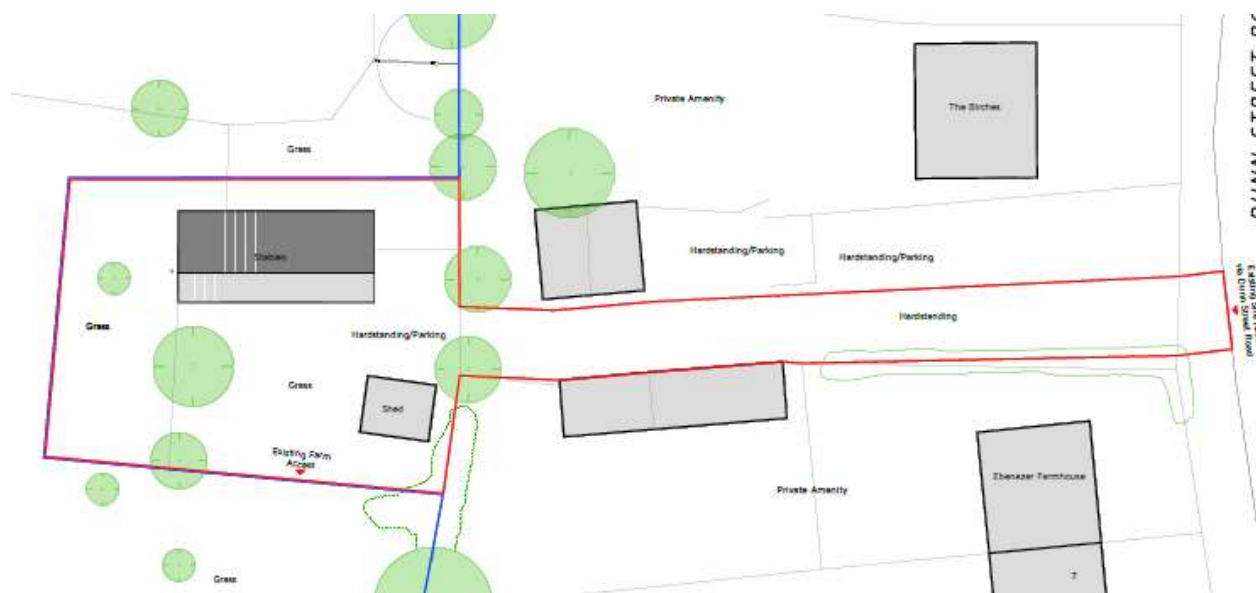
REFERENCE NO - 21/506626/FULL		
APPLICATION PROPOSAL Conversion of an existing stable at Stud Farm to provide a new two bedroom dwelling with associated parking, landscaping, private amenity space and external store (Resubmission to 21/503146/FULL).		
ADDRESS Stables At Stud Farm, Dunn Street Road, Bredhurst, Kent, ME7 3NA		
RECOMMENDATION REFUSE PLANNING PERMISSION		
SUMMARY OF REASONS FOR RECOMMENDATION <p>Due to the building location in open countryside, the domestication of the buildings appearance with the insertion of fenestration and large hard standing areas the proposal would have an adverse impact on local character.</p> <p>This impact, together with the introduction of domestic paraphernalia into the open landscape would result in urbanising development in this rural landscape, causing unacceptable harm to the character and appearance of the countryside and the Kent Downs Area of Outstanding Natural Beauty. The development would therefore neither maintain or enhance the distinctiveness of the countryside and Kent Downs Area of Outstanding Natural Beauty.</p> <p>As required by adopted policy, the application fails to demonstrate that any attempt has been made at securing an alternative commercial re use of the building such as an alternative stables use or a holiday let.</p> <p>The development is contrary to SS1, SP17, DM1, DM30 and DM31 of the Maidstone Borough Local Plan (2017), the National Planning Policy Framework (2021) and the Kent Downs AONB Management Plan 2021-2026 Policies SD9.</p>		
REASON FOR REFERRAL TO COMMITTEE Called in by Boxley Parish Council for the grounds set out in section 5 of this report.		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT Ms N Hood AGENT David Bedford
TARGET DECISION DATE 01/04/2022 (EOT)		PUBLICITY EXPIRY DATE 26/01/2022

Relevant Planning History

- 0.1 21/503146/FULL - Conversion of an existing stable at Stud Farm to provide a new two bedroom dwelling with associated parking, landscaping, private amenity space and external store.

Refused – 12/08/2021 on the following grounds:

- 0.2 The proposed development is in an unsustainable location with the proposed dwelling remote from local services and facilities which would result in future occupiers being reliant on the private motor vehicle to travel for their day to day needs and access to facilities. This would be contrary to the aims of sustainable development as set out in Policies SS1, SP17, DM1 and DM5 of the Maidstone Borough Local Plan (2017) and the National Planning Policy Framework (2021).
- 0.3 The proposal, by reason of the building location in open countryside, the domestication of the building appearance with the insertion of fenestration and large hardstanding areas would have an adverse impact on the design and appearance of the building and the site generally, and this impact together with the introduction of domestic paraphernalia into the open landscape would result in urbanising development in this rural landscape, causing unacceptable harm to the character and appearance of the countryside and the Kent Downs Area of Outstanding Natural Beauty. The development would therefore neither maintain or enhance the distinctiveness of the countryside and Kent Downs Area of Outstanding Natural Beauty. This is contrary to policies SS1, SP17, DM1, DM30 and DM31 of the Maidstone Borough Local Plan (2017), the National Planning Policy Framework (2021) and the Kent Downs AONB Management Plan 2014 to 2019 (Second Revision) (2014) Policies SD1, SD2, SD7 and SD9.
- 0.4 The application fails to demonstrate that any attempt has been made at securing an alternative commercial re use of the building such as alternative stables use or a holiday let, contrary to policy DM31 of the Maidstone Borough Local Plan (2017), and the National Planning Policy Framework (2021).



Existing Site Layout Plan

1 DESCRIPTION OF SITE

- 1.01 The application site covering an area of around 0.07 hectares is located in a backland location to the rear of existing properties fronting Dunn Street Road. The site is accessed from Dunn Street Road by a long private road between two of these existing properties. The prevailing pattern of local existing development consists of buildings fronting main roads with secondary ancillary buildings in the rear gardens with the

application building located to the west of the rear garden boundary line of properties facing Dunn Street Road.

- 1.02 The application site is currently occupied by a single storey windowless breeze block stable building with a tiled roof, associated storage shed and grass paddock. The site is located within the Kent Downs AONB with a public footpath (KH9) located to the south at the end of the row of properties fronting Dunn Street Road. The site is located in the countryside by virtue of being outside any defined settlement boundary.

2. PROPOSAL

- 2.01 The application proposes the conversion of the stables into a two-bedroom dwelling with associated parking. There will be one extension to the northern elevation. This extension would project 1.8 metres from the external wall with a width of 4 metres. The extension would have a small lean to roof with a ridge and eaves height of 2.3 metres and 2.1 metres respectively. The proposed extension would house an external store and refuse area.
- 2.02 External alterations also include the introduction of several windows to the north, south and eastern elevations and sliding patio doors to the western elevation. Internal alterations include new internal walls with the dwelling providing 2 bedrooms, a bathroom, kitchen and living/dining area.
- 2.03 The development would have a private amenity space. Access would be by an existing private drive and two parking spaces are shown to be provided to the south of the dwelling within the new curtilage. The existing shed to the south-east of the site will be demolished.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:
SS1- Maidstone borough spatial strategy
SP17- Countryside
SP21 Economic Development
DM1- Principles of good design
DM2- Sustainable design
DM3- Natural Environment
DM5 - Development on brownfield land
DM23- Parking standards
DM30- Design principles in the countryside
DM31- Conversion of rural buildings

The National Planning Policy Framework (NPPF 2021):
Section 12 – Achieving well-designed places

Kent Downs AONB Management Plan (2021-2026)

Local Plan Review (2021)
The Council's Regulation 19 Local Plan has recently finished public consultation and provides assessment criteria for economic development proposals in the countryside.

Whilst this document is a material planning consideration, at this time it is not apportioned much weight. The weight to be attached to individual policies will be adjusted upwards or downwards depending on whether objections have been received.

The current programme involves submission to the Planning Inspectorate in Spring 2022.

Policy SP9 of the review has similar goals to policy SP17 stating that:

"Development proposals in the countryside will not be permitted unless they accord with other policies in this plan, and they will not result in harm to the character and appearance of the area."

It also states that "Great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty."

Policy DM31 is to be retained with the "Principle of policy unlikely to change, minor amendments may be justified to reflect NPPF".

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.1 In addition to the site notice, 5 neighbouring properties were consulted by direct mail regarding the proposed development. Nine representations were received in, seven in support of the development, and two neutral.
- 4.2 The comments in support of the application are on the basis that the development would enhance the area, and there would be no loss of amenity, no increase in vehicle movements, and no adverse impact on the AONB.
- 4.3 The neutral comments relate to boundary issues and parking arrangements.

5. CONSULTATIONS

Boxley Parish Council

The NPPF supports the reuse of redundant buildings where an enhancement to their setup and to the setting would result. It is already of permanent and substantial construction (ref.8.3 in the policy) and will maintain its external features and walls being only converted internally. This will maintain its current visual external form and appearance and will be simplistic in design. It would be converted without major or complete reconstruction and remain in keeping with the landscape which was improved several years ago with green screening.

Motorised access already exists from Dunn Street. Main services already exist being mains electric and a connection to foul drainage. The applicant has attempted to sell the equestrian business but without success. There would be minimal consequences resulting from the external fabric of the building on the landscape and near neighbours.

I therefore have no hesitation in recommending to the Officer that approval be given but in the event of a recommendation for refusal I wish this application to be called in to the Planning Committee.

KCC Highways

This consultee responded with their standing advice, no objections received.

Environmental Health

No objections subject to land contamination conditions.

KCC Ecology

No objections subject to conditions relating to ecological mitigation measures and enhancements and lighting.

6. APPRAISAL

6.01 The key issues for consideration relate to:

- Principle of converting this former stable building into a dwelling
- Brownfield land DM5 and sustainability of the location
- Design, appearance, the countryside and the Kent Downs AONB
- Standard of proposed accommodation
- Neighbouring Amenity
- Ecology

Principle of converting this former stable building into a dwelling

6.02 Local Plan policy SP21 (vii) advises that the commercial re-use of existing rural buildings in the countryside will be prioritised over the 'conversion' to residential use, in accordance with policy DM31.

6.03 Policy DM31 considers the 'conversion' of rural buildings to other uses including residential stating that "Outside of the settlement boundaries as defined on the policies map, proposals for the re-use and adaptation of existing rural buildings which meet a number of listed criteria will be permitted. These criteria are considered below.

DM31 1 i) The building is of a form, bulk, scale and design which takes account of and reinforces landscape character

6.04 The application building currently has the functional appearance of a rural building constructed of breeze blocks and a tiled roof. There is no record of planning permission for the building. The proposal would not provide a building of a form, bulk, scale and design which takes account of and reinforces landscape character and therefore the conversion to residential use would be contrary to policy DM31, 1i).

DM31 1 ii). The building is of permanent, substantial and sound construction and is capable of conversion without major or complete reconstruction.

6.05 There is no independent evidence submitted with the application that the existing building is structurally sound as was recommended in the pre application advice.

6.06 With few openings in the existing building the conversion to residential use would involve significant work to insert new windows including large patio doors that have an overly domestic appearance. With no evidence of the structural condition of the building and the significant works to insert windows and doors the submitted proposal would not meet the requirement of policy DM31 1 ii).

DM31 1 iii). Any alterations proposed as part of the conversion are in keeping with the landscape and building character in terms of materials used, design and form

6.07 The proposed changes including the insertion of large patio doors, the facing materials and the parking and garden areas would change the character of this rural building and site to one with an overly domestic suburban appearance. The current proposal seeks to use a darker coloured cladding system and would include a 'slated cover' over one of the larger patio doors. This is not assessed as preventing the building from

gaining a suburban appearance. In this context the proposal fails to meet the requirement of DM31. 1 iii).

DM 1 iv) There is sufficient room in the curtilage of the building to park the vehicles of those who will live there without detriment to the visual amenity of the countryside.

- 6.08 The submitted proposal includes a large area of hardstanding that will provide circulation space and two car parking spaces. This layout has a suburban appearance that will extend west out into the countryside past the rear garden boundary line of properties to the east. Whilst there is room within the curtilage for two parking spaces, the provision of these spaces and the circulation space will be detrimental to the visual amenity of the countryside. The proposal fails to meet the requirements of DM31 1 iv).



DM 1 v). No fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it are erected which would harm landscape character.

- 6.09 The submitted plans appear to show all the boundaries marked by "3 Bar post and riven chestnut boundary fencing". This fencing would in acceptable in landscape terms, but it is questioned whether this style of fencing would provide the necessary security and privacy to future occupants. In this context there is likely to be future pressure for more substantial boundary treatments. The proposal would meet the requirements of DM31 1 v).

DM31 3 i). Every reasonable attempt has been made to secure a suitable business reuse for the building.

- 6.10 A financial viability assessment has been submitted with the application it concludes "The outcome of these appraisals demonstrates that the conversion of the application building to a two-bedroom residential dwelling is the most financially viable alternative for the site. It is therefore submitted that the proposed development would be in accordance with policy DM31 of the adopted Local Plan (2017)." It does not

demonstrate that any attempt has been made to secure a suitable business reuse for the building.

- 6.11 The conclusions of the submitted financial viability report submitted with the application are in line with the evidence base behind policy DM31. Policy DM31 was adopted to ensure that business and commercial floorspace was retained where possible in rural locations. Policy DM31 is adopted as there is pressure for conversion of commercial floorspace in the countryside to more valuable residential accommodation as is proposed with the current application. The submitted financial viability assessment confirms that residential accommodation is more viable than residential use. There is no evidence available to suggest that that a further commercial use could not be accommodated within the building.

- 6.12 Following the above assessment, the submitted proposal fails to meet the requirements of DM31 3 i).

DM31 3 ii). Residential conversion is the only means of providing a suitable re-use for a listed building, 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.

- 6.13 The application building is a single storey windowless breeze block stable building with a tiled roof, as are found on agricultural sites throughout the Kent countryside. It is not listed and does not contribute towards the setting of a listed building. The building does not contribute to landscape character or exemplify the historical development of the Kentish landscape. The proposal does not meet the requirement of DM31 3ii). In this context this is not a building that should be preserved through conversion.



Existing Site Photograph

DM31 3 iii). There is sufficient land around the building to provide a reasonable level of outdoor space for the occupants, and the outdoor space provided is in harmony with the character of its setting.

- 6.14 The submitted proposal includes a large area of hardstanding that will provide circulation space and two car parking spaces. This layout has a suburban appearance that will extend west out into the countryside past the rear garden boundary line of properties to the east.

- 6.15 Whilst there is room within the curtilage for two parking spaces, the provision of these spaces and the circulation space will be detrimental to the visual amenity of the countryside. The proposal fails to meet the requirements of policy DM31 3 iii).

Brownfield land DM5 and sustainability of the location

- 6.16 Policy DM 5 of the local plan states "Exceptionally, the residential redevelopment of brownfield sites in the countryside...." will be permitted where they meet the following criteria.

- a) The site is not of high environmental value.
- b) The 'redevelopment' will result in a significant environmental improvement.
- c) The density reflects the character and appearance of the area (DM12).
- d) The site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.

Consideration of DM5 a) and b) above

- 6.17 The questions here are whether the stables building and the site are currently of high environmental value, and whether the 'redevelopment' will result in a significant environmental improvement to this building.
- 6.18 The application site is in the Kent Downs AONB which falls into the definition of high environmental value. The stable building itself is not listed and has no particular merit as a rural building.
- 6.19 The submitted proposal with the changes to the appearance of this building and the introduction of hardstanding car parking and access areas to create a building with a suburban domestic appearance in this rural location is not considered to represent an improvement to the site. The proposal is contrary to DM5 a) and b).

Consideration of DM5 c) above

- 6.20 Policy DM12 advises "All new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. Development proposals that fail to make efficient use of land for housing, having regard to the character and location of the area, will be refused permission". The density of the proposal is acceptable in this location and the development is in line with DM5c).

Consideration of DM5 d) above.

- 6.21 The previous refusal assessed that the application site is in an 'unsustainable location'. Bredhurst is approximately 0.4 miles and Lordswood is 2 miles from the application site, Bredhurst and Lordswood do not have the services or facilities such as larger supermarkets, public transport and employment opportunities that are needed to avoid the need to travel by private vehicle. The boundary of Maidstone urban area is approximately 4 miles away to the south of the application site.
- 6.22 It was assessed, that to access Maidstone urban area on foot would require walking a long distance alongside either unlit, single lane roads or roads with high-speed limits. Additionally, the distance itself makes it unreasonable to assume occupants would walk.

- 6.23 It is accepted that this is the 'situation' for dwellings in this area. However as detailed within paragraph 5.4.1 of the applicants submitted statement "Policy DM31 of the Maidstone Local Plan makes provision for the conversion of rural buildings, including to residential use (to which locational sustainability is not a criteria consideration), providing a clear acknowledgement that the principle of residential conversions in rural areas, where there will inevitably be a greater reliance on the private car can be acceptable in the context of the sustainable benefits resulting from re-use development."
- 6.24 On this basis it is assessed that this application should benefit from the same considerations and that a refusal on the basis of sustainability would not be appropriate.

Design, appearance, the countryside and the Kent Downs AONB

- 6.25 Policy SP 17 of the Local Plan provides advice on the countryside which is defined as all those parts of the plan area outside the designated settlement boundaries on the policies map. Development proposals in the countryside will not be permitted unless they accord with other policies in this plan, and they will not result in harm to the character and appearance of the area.
- 6.26 Policy SP 17 states that great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty including the management plan. Account should be taken of the Maidstone Borough Landscape Character Guidelines Supplementary Planning Document.
- 6.27 Policy DM 30 (Design principles in the countryside) states that proposals which would create high quality design, satisfy the requirements of other policies in this plan and meet a number of stated criteria will be permitted. These criteria are considered below.
- i. 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.
- 6.28 Adopted Local Plan policy DM 1 states that proposals which would create high quality design and meet a number of criteria will be permitted. These criteria include responding positively to, and where possible enhancing the local character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation, and site coverage incorporating a high quality, modern design approach.
- 6.29 NPPF (2021) paragraph 130 advises that planning decisions should ensure that developments function well and add to the overall quality of the area. Developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping and be sympathetic to local character including the surrounding built environment. Paragraph 134 advises that permission should be refused for development of poor design.
- 6.30 The National Design Guide (Ministry of Housing, Communities and Local Government October 2019) at paragraph 38 states "An understanding of the context...of a site, neighbourhood and region influences the location, siting and design of new developments. It means they are well grounded in their locality...".
- 6.31 The proposal will introduce a new dwelling in a backland location in the countryside that is in conflict with the existing pattern of local development. The pattern of development in this location is made up of dwellings fronting the main road with semi-

public front gardens. Land at the rear provides private rear gardens and relief in terms of noise and disturbance from the main road. The current proposal to the west of the existing properties will upset and damage this layout introducing a new dwelling in the open countryside.

ii. Impacts on the appearance and character of the landscape would be appropriately mitigated. Suitability and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments to support development proposals in appropriate circumstances.

- 6.32 Policy SP 17 aims to prevent development in the countryside that would not accord with other policies of the plan, to protect the character and appearance of the countryside, and to give great weight to the conservation and enhancement of the AONB.
- 6.33 Paragraph 170 of the NPPF includes the advice that planning decisions should contribute to and enhance the natural environment by the protection and enhancement of valued landscapes, and recognition of the intrinsic character and beauty of the countryside.
- 6.34 Paragraph 172 advises that great weight should be given to the conservation and enhancement of the landscape and scenic beauty of protected areas such as AONBs where the current application site is located.
- 6.35 The NPPF advice regarding the countryside is clear that it is the 'intrinsic' character and beauty that should be protected, and the landscape and scenic beauty of AONBs with this relating to the protection of the nature of the land in itself. This assessment is separate from considering what roadside or other public views are available (public footpath KH9 is located to the south of the site).
- 6.36 The application site is located in the Bredhurst landscape character area in the published Maidstone Landscape Character Assessment and described as an area of downland located on the upper plateau of the North Downs in the Kent Downs Area of Outstanding Natural Beauty (AONB). "The landscape comprises a mixture of arable fields, paddocks, remnant orchards and small blocks of woodland...".
- 6.37 The Landscape Character Assessment reaches a conclusion of 'restore and improve' making the following comments.
- Restore and improve the rural setting to historical settlements such as Bredhurst and Stockbury villages through delivery of appropriate architectural and landscape design, increasing native tree cover and by discouraging fly tipping.
 - Avoid further built development which is out of context in terms of materials and design.
- 6.38 The proposed development does not protect or enhance this countryside location and will have an urbanising effect. The proposal will provide a building with an overly suburban and domestic appearance with large areas of hardstanding in a prominent rural location.
- 6.39 The proposal site is in an exposed and prominent location visible from local viewpoints and a new dwelling in this location with associated domestic paraphernalia would harm rural character and would fail to maintain local distinctiveness. The proposed

development does not protect or enhance what this countryside location and will have an urbanising effect.

iii. Proposals would not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological importance or the erosion of roadside verges.

6.40 The proposal will not result in unacceptable traffic levels on nearby roads.

iv. Where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area.

6.41 There are no other relevant buildings. The submitted proposals show open site boundaries with no proposed landscape screening.

v. Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

6.42 This is not considered relevant to the current application.

Account should be taken of the Kent Downs AONB Management Plan and the Maidstone Borough Landscape Character Guidelines SPD

6.43 The application site is found within the Kent Downs AONB. Policy SD2 of the Kent Downs AONB Management Plan states that 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.

6.44 Policy SD9 of the management plan states that the particular historic and locally distinctive character of rural settlements and buildings of the Kent Downs AONB will be maintained and strengthened. The use of sustainably sourced locally-derived materials for restoration and conversion work will be encouraged. New developments will be expected to apply appropriate design guidance and to be complementary to local character in form, siting, scale, contribution to settlement pattern and choice of materials. The submitted proposal is contrary to these policies and the Kent Downs AONB Management Plan.

Standard of proposed accommodation

6.45 Local Plan policy DM 1 Principles of good design states that proposals which would create high quality design and will be permitted where they respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not result in, or excessive noise, vibration, odour, air pollution, 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.

6.46 The proposed dwelling with the insertion of new windows and patio doors appears to be provide good levels of daylight and sunlight for a future occupant with room sizes

suitable for their function and adequate access. The proposed dwelling in this rural location is on a substantial plot comparative to others which is remote from neighbours and future residents would have adequate private amenity space.

Neighbouring amenity

- 6.47 Local Plan policy DM1 states that proposals which would create high quality design and will be permitted where they respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not result in, or excessive noise, vibration, odour, air pollution, 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.
- 6.48 Based on the location and the separation distance of the stables building from other residential properties it is not considered that this single dwelling would have a significantly detrimental impact upon the amenity of neighbouring properties.

Ecology

- 6.49 Policy DM3 states "To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment by incorporating measures where appropriate"
- 6.50 Subject to conditions raised in the consultation response from KCC Ecology and the introduction of measures to achieve net biodiversity gain the proposal is considered acceptable in relation to ecology and biodiversity.

7. CONCLUSION

- 7.01 The proposal, by reason of the building location in open countryside, the domestication of the building appearance with the insertion of fenestration and large hardstanding areas would have an adverse impact on the design and appearance of the building and the site generally, and this impact together with the introduction of domestic paraphernalia into the open landscape would result in urbanising development in this rural landscape, causing unacceptable harm to the character and appearance of the countryside and the Kent Downs Area of Outstanding Natural Beauty. The development would therefore neither maintain or enhance the distinctiveness of the countryside and Kent Downs Area of Outstanding Natural Beauty. This is contrary to policies SS1, SP17, DM1, DM30 and DM31 of the Maidstone Borough Local Plan (2017), the National Planning Policy Framework (2021) and the Kent Downs AONB Management Plan 2021-2024 policy SD9.
- 7.02 The application fails to demonstrate that any attempt has been made at securing an alternative commercial re use of the building such as an alternative stables use or a holiday let, contrary to policy DM31 of the Maidstone Borough Local Plan (2017), and the National Planning Policy Framework (2021).

8. RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

- 1) The proposal, by reason of the building location in open countryside, the domestication of the building appearance with the insertion of fenestration and large hardstanding areas would have an adverse impact on the design and appearance of

the building and the site generally, and this impact together with the introduction of domestic paraphernalia into the open landscape would result in urbanising development in this rural landscape, causing unacceptable harm to the character and appearance of the countryside and the Kent Downs Area of Outstanding Natural Beauty. The development would therefore neither maintain or enhance the distinctiveness of the countryside and Kent Downs Area of Outstanding Natural Beauty. This is contrary to policies SS1, SP17, DM1, DM30 and DM31 of the Maidstone Borough Local Plan (2017), the National Planning Policy Framework (2021) and the Kent Downs AONB Management Plan 2021-2024 policy SD9.

2) The application fails to demonstrate that any attempt has been made at securing an alternative commercial re use of the building such as an alternative stables use or a holiday let, contrary to policy DM31 of the Maidstone Borough Local Plan (2017), and the National Planning Policy Framework (2021).

Case officer: William Fletcher

Agenda Item 17



Ordnance Survey - data derived from OS Premium

REFERENCE NO - 21/505341/SUB		
APPLICATION PROPOSAL Submission of Details to discharge Condition 14 (Vehicular access strategy) of planning permission 20/502266/FULL		
ADDRESS Land Off Farleigh Hill Tovil Kent		
RECOMMENDATION Application Permitted		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed all-purpose T-Junction with Ghost Turning Lanes and pedestrian refuge islands on Farleigh Hill and emergency access to Straw Mill Hill has passed Stage 1 and 2 safety audits, has s278 Technical Approval and KCC has no highway safety concerns subject to adequate visibility splays and implementation prior to first occupation.		
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Wilby and Tovil PC due to highway safety concerns		
WARD South	PARISH/TOWN COUNCIL Tovil	APPLICANT PJBurke (Kent) Ltd AGENT MDAssociates
TARGET DECISION DATE 01/12/21		PUBLICITY EXPIRY DATE 26/01/22

Relevant Planning History

22/500967/NMAMD Non-material amendment: Minor alterations to the application boundary (relating to 10/0256 amended by 20/502266/FULL).
Pending Consideration

20/502266/FULL

Section 73 Variation of conditions 3, 4, 5, 6, and 10 of MA/10/0256 (Application to extend the time limit for implementing permission MA/01/0686 being "Outline application for the erection of dwellings with associated access with provision for community facilities and open space with all matters reserved for future consideration"), to amend the wording to "The development shall not commence outside of the hatched area on drawing MTL-127-14-rev B until...", to allow some development to commence on site prior to the requirements of each condition being met.
Approved 06.01.2021

20/503055/FULL

Section 73 -Variation of Condition 2 (Surface Water Drainage Scheme) and 3 (Arboricultural Method Statement) pursuant to application 15/509041/REM (- Approval of reserved matters (siting, design, external appearance and landscaping) following the outline approval dated 23 November 2012 (MA/10/0256) for the erection of 272 dwellings (planning conditions 1, 2, 7 and 8) to amend the wording to "The development shall not commence outside of the hatched area on drawing MTL-127-14-rev B until...", to allow some development to commence on site prior to the requirements of each condition being met.
Approved 30.10.2020

18/504575/FULL

Improvement of existing access to provide a new roundabout access to serve land off Farleigh Hill, Tovil.
Approved 23.05.2019

15/509041/REM

Approval of reserved matters (siting, design, external appearance and landscaping) following the outline approval dated 23 November 2012 (MA/10/0256) for the erection of 272 dwellings (planning conditions 1, 2, 7 and 8).
Approved 23.05.2019

10/0256

Application to extend the time limit for implementing permission MA/01/0686 being "Outline application for the erection of dwellings with associated access with provision for community facilities and open space with all matters reserved for future consideration" in accordance with planning application submitted on 17 February 2010 and the draft S106 agreement submitted on 21 April 2011.
Approved 23.11.2012

06/0919

Improvement of existing access and provision of a new roundabout for access to serve Walnut Tree Farm and Land off Farleigh Hill, Tovil as shown on drawing number(s) DHA/5736/01 and 1146/GA/03 Rev A received on 16/5/06 and as amended by additional document(s) being drawing numbers 1146-SD-1100-03, -39, -54 and -62, 1146-SD-1200-1, and 1146-GA-04 received on 19/7/06.
Approved 15.09.2006

01/0686/01

An application for approval of reserved matters pursuant to Condition 1 of MA/01/0686 (Outline application for the erection of dwellings with associated access with provision for community facilities and open space with all matters reserved) being details on siting, design, external appearance, means of access and landscaping in accordance with amended plans received on the 31st January 2008 numbered 2989 - PD001; 2989 - PD002; 2989 - PD023; 2989 - PD030; 2989 - PD031; 2989 - PD032; 2989 - PD100; 2989 - PD101; 2989 - PD102; 2989 - PD103; 2989 - PD104 together with attached proposed accommodation schedule received 06/02/2008.
Approved 03.04.2008

01/0686

Outline application for the erection of dwellings with associated access with provision for community facilities and open space with all matters reserved for future consideration as amended by letters of 01 June, 26 October and 02 November 2001, as shown on dwg No. DHA/3773/01 received on 01.05.01 and as amended by additional documents being letters of 01.06.01 and 26.10.01.
Approved 21.02.2005

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site has planning permission for 272 dwellings and is located on the south-western side of Maidstone, approximately 1 mile south of the town centre. It extends to an area of 6.3 hectares and has existing access to the B2010, Farleigh Hill.
- 1.02 There is a line of cottages on the NW boundary, being 129-147 (odds) Dean Street. To the north east of the cottages is a redundant highway used for informal parking as a 'layby'. Opposite is the Tovil Household Waste/Recycling Site off Burial Ground Lane.

2. PROPOSAL

- 2.01 Condition 14 requires an up to date assessment of the scheme in terms of highway safety terms because the applicant wishes to omit a roundabout originally approved as the main means of access. The details submitted now show primary access as a T-junction with a left/right staggered ghost island junction on Farleigh Hill (modifying the existing Burial Ground Lane ghost island). There will be a proposed pedestrian refuge island (uncontrolled crossing) to the right of the junction. The submission shows horizontal and vertical visibility is met in both directions.
- 2.02 The emergency access will be as originally approved and will pass through the neighbouring land to the east and then onto Straw Mill Hill. Visibility of that access needs to be 2.4m by 43m each way so some clearing is needed and regrading is needed to achieve vertical visibility beyond 30m to the east. The emergency access would only be for emergency vehicles and would be barriered/bollarded.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 DM21
Kent Minerals and Waste Local Plan 2013-30 as amended by Early Partial Review (2020)
National Planning Policy Framework (NPPF) Paragraph 111
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 CLLR WILBY: need TRO for double yellow lines to be progressed and confirmation of support for KCC booking system at Tovil Waste/Recycling site.

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)

Tovil PC:

- 5.01 Object and call in by the Planning Committee:
- Concern at safety of both drivers and pedestrians in an already busy area.
 - The brow of the hill means that drivers are dazzled during the winter months. and will not be able to see pedestrians crossing the road so the junction to be a no right turn (left turn only).
 - Concern that the traffic study was carried out in lockdowns
 - Issue with the KCC Household Waste Site queuing down Farleigh Hill.

KCC (H&T):

- 5.02 The reduction in the length of the turning lane for Burial Ground Lane is acceptable on the basis of the new booking system for the Tovil Waste Site. The GRTL that will serve the development will have a technically complaint deceleration lengths. No objections subject to:
- Provision and maintenance of the visibility splays shown on the submitted plans drawing number: 36812/C/SK01 Rev P3 and 36812/C/SK02 Rev P1) with no obstructions over 0.6 metres above carriageway level within the splays, prior to the use of the site commencing.

- Completion and maintenance of the access shown on the submitted plans (drawing number: 36812/C/SK01 Rev P3) prior to the use of the site commencing.

6. APPRAISAL

Main Issue

- 6.01 The proposed scheme is in accordance with Manual for Streets, has passed Stage 1 and 2 safety audits, has s278 Technical Approval and KCC is satisfied the overall design is acceptable in highway safety terms subject to visibility splays and implementation of the new junction before any occupation of the site.
- 6.02 Concerns from the Ward Cllr and Tovil PC in terms of queues from Tovil Waste site has been eliminated as it is now bookable only. A TRO for double yellow lines to the cottages in Dean Street opposite Burial Ground Lane is already required by legal agreement.

PUBLIC SECTOR EQUALITY DUTY

- 6.03 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The proposed all-purpose T-Junction with Ghost Turning Lanes and pedestrian refuge islands on Farleigh Hill and emergency access to Straw Mill Hill has passed Stage 1 and 2 safety audits, has s278 Technical Approval and KCC has no highway safety concerns subject to adequate visibility splays and implementation prior to first occupation.

RECOMMENDATION

APPROVE DETAILS

INFORMATIVES

- 1) This decision is based on the following:
- | | |
|---------------------|---|
| CCF_000088 | Emergency Exit |
| 36812/C/SK01 Rev P3 | S278 Works Visibility Splay |
| 36812-C-SK02 Rev P1 | Emergency Access Visibility Splays |
| 36812/C/001 Rev P5 | S278 General Arrangement |
| 36812/C/002 P3 | S278 Works Site Clearance |
| 36812/C/003 P3 | S278 Works Levels, Drainage, Signing and Lining |
| 36812/C/004 P2 | S278 Works Existing Utilities |
| 36812/C/005 P3 | S278 Works Construction Plan |
| 36812/C/006 P2 | S278 Works Agreement Plan |
| 36812/C/007 P2 | S278 Works Construction Details |

36812/C/008 P2 S278 Swept Path Analysis

Email From Agent re KCC dated 09.03.22

- 2) You are reminded that the legal agreement signed 6 January 2021 requires reasonable endeavours to secure a traffic regulation order for parking restrictions in the form of double yellow lines to be placed in front of 129 — 147 (odd numbers) Dean Street within 12 months of the Commencement of Development.
- 3) You are advised that the approval is based upon:
 - Provision and maintenance of the visibility splays shown on the submitted plans drawing number: 36812/C/SK01 Rev P3 and 36812/C/SK02 Rev P1) with no obstructions over 0.6 metres above carriageway level within the splays, prior to the use of the site commencing.
 - Completion and maintenance of the access shown on the submitted plans (drawing number: 36812/C/SK01 Rev P3) prior to the use of the site commencing
 - Lockable bollards/gate to the emergency access.

Case Officer: Marion Geary

Agenda Item 18



Ordnance Survey - data derived from OS Premium

22/500414/FULL South View Lodge, Pilgrims Way, Detling, Maidstone, Kent, ME14 3JY

Scale: 1:1250

Printed on: 10/3/2022 at 9:57 AM by JoannaW

REPORT SUMMARY

REFERENCE NO - 22/500414/FULL			
APPLICATION PROPOSAL			
Demolition of existing conservatory and erection of a two-storey rear extension and replacement front porch.			
ADDRESS South View Lodge Pilgrims Way Detling Maidstone Kent ME14 3JY			
RECOMMENDATION : GRANT			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
For the reasons set out in the report below it is considered that the proposed rear extension and replacement porch would be acceptable and would not cause significant visual harm, harm to neighbouring amenity nor would it be unacceptable in terms of any other material planning considerations. The proposed developments are considered to be in accordance with current policy and guidance.			
REASON FOR REFERRAL TO COMMITTEE			
The recommendation is contrary to the views of Detling Parish Council who have requested the application be presented to the Planning Committee.			
WARD Detling And Thurnham	PARISH/TOWN COUNCIL Detling	APPLICANT Garry Walker AGENT Cre8room Limited	
DECISION DUE DATE 28/03/22	PUBLICITY EXPIRY DATE 10/03/22	OFFICER SITE VISIT DATE 25/02/2022	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
76/0292	Replacement of existing timber garages	Permitted	13/05/1976
76/0293	Two dwellings as amended by the agent's letters dated 10th June 1976, 30th July 1976, 24th August 1976 and accompanying Drawing No. 76/248/6A.	Permitted	17/09/1976

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a two-storey detached dwelling. The existing materials of the dwelling comprise of brick and hung tile for the external walls, tiles for the roof and brown uPVC for the windows and external doors.

- 1.02 The site is accessed by a private driveway from Pilgrims Way and is situated slightly higher than the street. The driveway leads to a large parking and turning area and the property is situated to the east. The property sits in the centre of a spacious plot with a flat garden at the rear of the property. There are tall trees along the boundary of the site with Pilgrims Way which would act as a screen from the street scene. Other boundary treatments on the site consists of tall hedging and a wall.
- 1.03 The site is located just outside a conservation area but is within an area of outstanding natural beauty. It is within the countryside in Detling and within the 500m buffer of a local wildlife site. The site is also adjacent to a Grade II listed building.

2.0 PROPOSAL

- 2.01 The proposal is for the demolition of an existing conservatory and the erection of a two-storey rear extension and replacement front porch.

Two-storey rear extension

- 2.02 The extension would be on the east elevation to the rear of the original dwelling and would replace the existing conservatory which has an approximate width of 7.9m, depth of 3.7m, eaves height of 2.4m and ridge height of 3.3m. The proposed extension would have an approximate width of 12.7m (the same width as the existing dwelling) and an approximate depth of 5m. It would have a dual pitched roof with an eaves height of approximately 5.3m (to match the existing dwelling) and a ridge height of 8.3m (which would also match the height of the existing dwelling). The proposed materials would consist of plain tiles to match the existing for the roof, uPVC/aluminium for the windows and external doors and render for the external walls. The extension would consist of an open plan dining/lounge area and an extension to the existing kitchen on the ground floor. On the first floor the extension would consist of an extension to the three existing bedrooms, along with two new en-suites and a dressing area.

Replacement front porch

- 2.03 The porch would be on the west elevation and would be at the front of the property. The existing porch has an approximate width of 2.4m and depth of 1.2m. It has a flat roof with an eaves height of approximately 2.3m. For comparison the proposed porch would have an approximate width of 4.2m and depth of 2.6m, it would also have a flat roof with an eaves height of approximately 2.7m. The proposed materials for the porch would be a mineral felt/fibreglass flat roof, uPVC/aluminium for the windows and external doors and facing brickwork to match the existing for the external walls.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Development Plan – Maidstone Borough Local Plan 2017: Policies DM1, DM30, DM32 and SP17

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 19) dated October 2021: Policies LPRSP9 – Development in the Countryside LPRSP15 – Principles of good design LPRQ&D4 – Design principles in the countryside.

The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.

Supplementary Planning Documents: Maidstone Local Development Framework: Residential extensions Supplementary Planning Document,

Kent Downs Area of Outstanding Natural Beauty Management Plan 2021-2026

4.0 LOCAL REPRESENTATIONS

4.01 Two neighbour representations have been received, objecting to the proposal on the following grounds (summarised):

- Proposed materials, design, and layout.
- The scale of the proposed two-storey extension causing an effect on listed buildings, the character of a conservation area and loss of landscape features.
- Overshadowing.
- Causing harm to nearby trees.
- Causing harm to local endangered wildlife.

5.0 CONSULTATIONS

5.01 Detling Parish Council

- Effect of listed buildings on the character of the Detling Conservation area.
- Design and Appearance.
- Density of buildings within the area.
- If the case officer is minded to approve the application, the parish council requests that this be referred to the MBC Planning Committee.

5.02 Ward Councillor raised the following concerns:

- The scale and design
- The impact it would have on the Detling conservation area.
- If that case officer is minded to approve, please refer this application to planning committee.

Detling Parish Council had already requested this application be referred to planning committee and the request by the Ward Councillor was outside the 21 day period of the weekly list date for the application.

5.03 Conservation Officer (Verbal comments) : No harm would result, the larger two storey extension would be to the east of the dwelling furthest from the Conservation Area and screened by the existing dwelling. Design acceptable and would not result in harm to setting of Conservation Area or adjacent Listed Buildings.

6.0 APPRAISAL

6.01 The key issues for consideration relate to:

- Site Background/Principles of development/Policy context
- Visual amenity (including setting of Conservation Area, Listed Buildings and impact on AONB)
- Residential amenity
- Parking/Highway safety
- Other Matters

Site Background/Principle of Development/Policy Context

6.02 The existing dwelling was built under the permission 76/0293.

6.03 The application site is located in the countryside, as defined in the Local Plan, Policy DM32 of the local plan allows for residential extensions provided that:

- i). The proposal is well designed and is sympathetically related to the existing dwelling without overwhelming or destroying the original form of the existing dwelling;
- ii) The proposal would result in a development which individually or cumulatively is visually acceptable in the countryside;
- iii) The proposal would not create a separate dwelling or one of a scale or type of accommodation that is capable of being used as a separate dwelling; and
- iv) Proposals for the construction of new or replacement outbuildings (e.g. garages) should be subservient in scale, location and design to the host dwelling and cumulatively with the existing dwelling remain visually acceptable in the countryside.

6.04 Policy DM1 (ii) in terms of design refers to developments responding positively to the local character of the area, with regard being paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. DM1 (iv) re-iterates consideration to be paid to adjoining neighbouring amenity.

6.05 Policy DM30 refers to design principles in the countryside, where development is proposed in the countryside the design principles set out in this policy must be met. DM30 (v) states:

Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

6.06 The residential extensions SPD in relation to rear extensions sets out that rear extensions should not normally exceed 4m in the depth in the case of a detached dwelling. The SPD also sets out:

'The acceptable depth and height of a rear extension will be determined by the ground levels, distance from the boundaries and also the size of the neighbouring garden/amenity space. Amenity considerations set out elsewhere in the document

are important factors in determining the appropriateness of the depth of any rear extension'. (Para 4.9)

- 6.07 The residential extensions SPD in relation to extension within the countryside sets out that any proposed extensions should not adversely impact on the form and character of the original building or the character of the countryside. Additionally, the SPD states where an extension is acceptable in principle, its form should be well proportioned and present a satisfactory composition with the house. The roof shape is critical to creating a successful built form. The SPD in relation to screening also sets out that existing mature screening can help assimilate a modest extension into the rural landscape. The SPD also states:

In considering an extension to a residential dwelling in the countryside, the Local Planning Authority would normally judge an application as modest or limited in size if, in itself and cumulatively with previous extensions, it would result in an increase of no more than 50% in the volume of the dwelling. Proposed new garages and outbuildings within 5 metres of the existing dwelling will be calculated as part of this volume. The gross volume will be ascertained by external measurement taken above ground level and include the volume of the roof. (Para 5.18)

Visual Impact

- 6.08 The application site is situated higher than the street Pilgrims Way and there are trees located along the boundary of the curtilage of the site and the road which act as a screen meaning there is significantly reduced public visibility to the site. At the present time considering the difference in ground height and the existing boundary treatments, the proposed two-storey extension would not impact on the visual amenity of the streetscene. The proposed replacement front porch would be visible to the streetscene, however considering the difference in ground height, and the small scale of the increased footprint of the replacement porch, it is considered that the proposal would not adversely affect the streetscene.
- 6.09 Planting cannot however be relied on a permanent screening and therefore it also needs to be considered, should that be removed would the proposal remain acceptable. The proposed design of the two-storey extension is considered to be in keeping with the original property with the roof pitch matching the original and with the eaves height and ridge height also matching the existing property. The proposed porch is considered to be in keeping with the original property due to the use of matching materials to the existing dwelling, as such is it is considered the proposal would not adversely impact on the character of the area.
- 6.10 Concerns have been raised regarding the overdevelopment and density of buildings within the area. The proposed two-storey extension would only exceed the recommended depth beyond the existing rear wall of the property by 1m for a detached dwelling. Additionally, paragraph 4.9 of the residential extensions SPD sets out that the acceptable depth and height of a rear extension will be determined by the ground levels, distance from the boundaries and also the size of the neighbouring garden/amenity space. The proposed two-storey extension is considered to be well accommodated within the large site. Furthermore, referring to paragraph 5.18 of the

Residential Extensions SPD the proposal is considered to be of a modest size and therefore would not make a detrimental impact to the overdevelopment and density of buildings within the area.

- 6.11 The effect of the proposal on nearby listed buildings, in particular the Grade II listed Dovecot in the garden of the neighbouring property Medway House is considered acceptable. The Dovecot is located approximately 28m from the proposed porch and there is an existing hedge and wall located along the boundary dividing the two sites, the hedging would act as a screen between the proposal and the Dovecot and considering the minimal additional scale of the proposed porch it is considered that the proposed porch would not adversely affect the setting of the listed building. The proposed two-storey extension is located at the rear of the application property, and due to the orientation of the site, the application property is therefore located between the proposal and the Dovecot, it is therefore considered that due to the proposal not exceeding the height of the existing property that it would not harmfully impact the listed building.
- 6.12 Additionally, concerns were raised about the proposal affecting the setting of the conservation area. The proposal and existing property fall just outside the boundary of the conservation area, only part of the driveway is within it. No harm would result, the larger two storey extension would be to the east of the dwelling furthest from the Conservation Area and screened by the existing dwelling. Design acceptable and would not result in harm to setting of Conservation Area or adjacent Listed Buildings.
- 6.13 The dwelling is situated as part of a cluster of buildings, although situated within the open countryside, the characteristics are such that there is existing built development in this part of the AONB. It is not considered the proposal would harm the openness and intrinsic character of the countryside or AONB.
- 6.14 Overall the proposed developments are of an acceptable design and appearance which would appear subservient to the existing dwelling and would not harm visual amenity of the streetscene or character of the surrounding area, nor would it harm the site itself.

Residential Amenity

- 6.15 Representation has been received from two of four adjoining neighbouring properties (East Court, The Street and Medway House, Pilgrims Way). It is those properties together with Downsfield, Pilgrims Way, Romantica, Pilgrims Way, Emmerton Lodge, The Street and Elva Cottage, Pilgrims Way that would be most likely impacted by the proposal. The other neighbouring properties are considered to be a significant distance away to be unaffected by the proposal.

6.16 *Medway House*

Medway House, Pilgrims Way is the adjoining neighbour located west of the application site. There is tall hedging and a wall dividing the two properties. The proposed two-storey extension is located on the east elevation at the rear of the application property, the existing property is therefore located between the proposal and Medway House, it is therefore considered that the proposed two-storey

extension would not impact upon the residential amenity of Medway house by causing a loss of light, overshadowing or privacy as the extension would not exceed the height of the existing property.

The proposed replacement porch is on the west elevation at the front of the application property. It is approximately 22m from the boundary with Medway House. The proposed porch is considered to be of a modest scale and considering the existing boundary treatment and the distance from the proposal to the boundary with Medway House, I am satisfied that the proposed porch would not adversely affect the residential amenity of Medway House.

6.17 *Emmerton Lodge*

Emmerton Lodge, The Street is the adjoining property located north-west of the application site. Emmerton Lodge is situated higher than the application site, there is a tall existing hedge dividing the two sites. The proposed two-storey extension is approximately 20m from the boundary with Emmerton Lodge. It is considered that due to the distance from the proposal to the neighbouring property and existing boundary treatment that the proposal would not adversely affect the residential amenity of Emmerton Lodge. Additionally, there are no windows proposed that would result in a loss of privacy or overlooking.

The proposed replacement porch is located approximately 21m from the boundary with Emmerton Lodge. The porch would not extend any further beyond the existing front elevation and considering the proposed height is would not exceed the height of the existing property, it is therefore considered that the proposal would not impact upon the residential amenity of Emmerton Lodge by causing a loss of light, privacy or overlooking.

6.18 *East Court*

East Court, The Street is the adjoining property located north of the application site. East Court is also situated higher than the application site and there is also an existing tall hedge dividing the two properties. Concerns were raised about the two-storey extension overshadowing East Court, however, the proposal is approximately 16.3m from the boundary with East Court and considering the boundary treatment and the difference in ground height of the two sites, I am satisfied that the proposal would not adversely affect the residential amenity of East Court by overshadowing. Additionally, there are no windows proposed that would result in a loss of privacy or overlooking towards East Court.

As the proposed replacement porch is located on the west elevation and does not extend any further beyond the front elevation and also does not exceed the height of the existing property, it is considered that the proposed porch would not impact upon the residential amenity of East Court by causing a loss of light or overshadowing or a loss of privacy or overlooking.

6.19 *Downsfield*

Downsfield, Pilgrims Way is the neighbouring property located east of the application site. There is a road which divides the two properties. The proposed replacement porch is considered to be a significant distance away to not impact on this property. Additionally, as it is located on the west elevation and therefore the existing property would act as a screen from the development to Downsfield.

The main impact would be from the proposed two-storey extension, which is approximately 28m from the boundary with Downsfield (including the road dividing the two properties). There are existing trees located on the boundary of the curtilage of the application site which would act as a screen from the neighbouring property to the proposal. It is considered that due to the distance from the proposal to the neighbouring site and the existing boundary treatment that the proposal would not adversely affect the residential amenity of Downsfield by causing a loss of light or overshadowing. There are windows proposed on the rear elevation of the extension which would look towards Downsfield, however, the existing trees would block any views available from the proposal to the neighbouring property. I am therefore satisfied that the extension would not impact upon the residential amenity of Downsfield by causing a loss of privacy or overlooking.

6.20 *Romantica*

Romantica, Pilgrims Way is the neighbouring property also located east of the application site. The proposed replacement porch is considered to be a significant distance away to not impact on this property. Additionally, as it is located on the west elevation and therefore the existing property would act as a screen from the development to Romantica.

The main impact would be from the proposed two-storey extension, which is approximately 30.5m from the proposal to the boundary with Romantica (including the road which is located between the two properties). The boundary treatment consists of hedging. It is considered that due to the distance from the proposal to the neighbouring property and the orientation of the site that the proposal would not adversely affect the residential amenity of Romantica by causing a loss of light or overshadowing. The windows proposed on the rear elevation of the extension would look towards Romantica, however, they would provide similar views to the existing windows located on the rear elevation, and considering the distance, I am satisfied that the proposal would not impact upon the residential amenity of Romantica by causing a loss of privacy or overlooking.

6.21 *Elva Cottage*

Elva Cottage, Pilgrims Way is located south of the application site. Pilgrims Way divides the two properties and there are existing tall trees located along the boundary of the curtilage of South View Lodge. The application site is situated higher than Elva Cottage. The proposed two storey extension is approximately 24.6m from the boundary with Elva Cottage (including Pilgrims Way). It is considered that due to the boundary treatment, the distance from the proposal and the difference in ground height that the proposal would not negatively impact the residential amenity of Elva

Cottage by causing a loss of light or overshadowing. There are no windows proposed that would result in a loss of privacy or overlooking towards Elva Cottage.

The proposed replacement porch is approximately 28.5m from the boundary with Elva Cottage. It is considered that due to the minor alterations to the height and depth of the porch and the distance from the proposal to Elva Cottage that it would not impact upon the residential amenity of Elva Cottage by causing a loss of light, overshadowing or a loss of privacy or overlooking.

6.22 Overall

The proposals would not result in significant harm to neighbouring residential amenity that would warrant a refusal.

Parking/Highway Safety

- 6.23 The existing parking provisions at the site would remain. The proposal does not include any additional bedrooms, the extension would only extend the existing three bedrooms. It is therefore considered that the proposal would not impact upon parking at the site or the wider highway network.

Other Matters

- 6.24 The site boundary treatment along the boundary with the street Pilgrims Way consists of tall trees, concerns were raised about the proposal causing harm to these trees. The proposed extension would replace the existing conservatory, considering the extension would only be a further 0.4m closer to the trees than the existing conservatory and a further 1.3m beyond the rear wall than the existing conservatory, it is considered that the proposal would not harmfully impact upon the trees.
- 6.25 Concerns were also raised about the proposal causing harm to local endangered species such as slow worms, glow worms and small reptiles. The proposed extension would be built upon already developed garden land. However, in line with the NPPF, policy DM1 of the local plan and the residential extension SPD biodiversity enhancements should be encouraged, details of which can be sought by condition.
- 6.26 The NPPF, Local Plan and residential extensions SPD all seek to promote the use of renewables and energy/water efficient buildings. The proposals by their nature are fairly modest, such that it may be unreasonable or inappropriate to seek to secure such measures for an extension to the dwelling. However, energy efficiency can be secured through construction or water efficient for use of measures such as water butts, as such to secure such measure a condition is considered reasonable to ensure that the development incorporates appropriate measures.

7.0 CONCLUSION

- 7.01 For the reasons set out above it is considered that the proposed extension and replacement porch would be acceptable and would not cause significant visual harm, harm to neighbouring amenity nor would it be unacceptable in terms of any other material planning considerations. The proposed developments are considered to be in accordance with current policy and guidance.

8.0 RECOMMENDATION – GRANT 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 - Received 27/01/2022

Existing Elevations, Floor and Block Plans - Drawing No. SVLGW/P - Received 27/01/2022

Proposed Elevations, Floor and Block Plans - Drawing No. SVLGW/P - Received 27/01/2022

Reason: To clarify which plans have been approved.

(3) The materials to be used in the development hereby approved shall be as indicated on the approved plans.

Reason: To ensure a satisfactory appearance to the development

(4) The extension/s hereby approved shall not commence above slab level until details of a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through at least one integrated method into the design and appearance of the extension by means such as swift bricks, bat tubes or bee bricks, and through the provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgehog corridors. The development shall be implemented in accordance with the approved details prior to first use of any extension hereby approved and all features shall be maintained thereafter.

Reason: To enhance the ecology and biodiversity on the site in the future.

(5) The development shall not commence above slab level until details of how the proposal hereby approved shall be constructed to secure the optimum energy and water efficiency of the extension/building have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first use and maintained thereafter; The details shall demonstrate that consideration has been given to incorporating small scale renewable energy generation options have been considered first and shall only be discounted for reasons of amenity, sensitivity of the environment or economies of scale, installing new energy efficient products, such as insulation, energy efficient boilers, low energy lighting shall be considered as a secondary option if the use of renewables has been demonstrated to not be appropriate.

Reason: To ensure an energy efficient form of development.

Case Officer: Chloe Berkhauer-Smith

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

Agenda Item 19



21/503585/FULL Land west of Church Road, Otham, Kent, ME15 8SB

Scale: 1:5000

Printed on: 27/1/2022 at 15:53 PM by JoannaW

REFERENCE NO - 21/503585/FULL

APPLICATION PROPOSAL

Section 73 - Application for Variation of condition 30 (to vary the trigger point for the delivery of the Willington Street/Deringwood Drive improvements, to prior to occupation of 100 units, rather than prior to commencement above floor slab level) pursuant to application 19/506182/FULL (Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping, allowed on appeal)

ADDRESS

Land West of Church Road, Otham, ME15 8SB

RECOMMENDATION – ADVISE THE PLANNING INSPECTORATE THAT THE COUNCIL WOULD HAVE APPROVED PERMISSION SUBJECT TO CONDITIONS

SUMMARY OF REASONS FOR RECOMMENDATION

For the reasons set out in the report, officers advise it is likely that a refusal based on the proposed ground would not be sustainable at the now lodged Appeal and would result in an award of significant costs against the Council for unreasonable behaviour.

It is therefore recommended the Planning Committee decides to advise the Planning Inspectorate that they 'would have' approved permission as per the original recommendation contained in the officer's report to 17th February 2022 meeting but with an amendment to condition 30 to remove reference to '31st December 2023' for the reasons set out in this report.

REASON FOR REFERRAL TO COMMITTEE

Otham Parish Council strongly objects to the proposals for the reasons outlined in the original report.

Councillor Newton has requested the application is considered by the Planning Committee.

WARD

Downswood & Otham

PARISH COUNCIL

Otham

APPLICANT

Bellway Homes Ltd

AGENT

None

DECISION DUE DATE:

25/02/22

PUBLICITY EXPIRY DATE:

15/11/22

SITE VISIT DATE:

Various in 2021/2022

RELEVANT PLANNING HISTORY

App No

Proposal

Decision

Date

19/506182

Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.

REFUSED & ALLOWED AT APPEAL

07/01/21

19/501600

Outline application for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space (Access being sought with all other matters reserved for future consideration)

REFUSED & ALLOWED AT APPEAL

07/01/21

1.0 BACKGROUND & PROCEDURE

- 1.01 This application was heard at Planning Committee on 17th February 2022. The application was recommended for approval and the Committee Report and Appeal Decision is attached at the **Appendix**. Contrary to the recommendation of the Head of Planning and Development, a motion was proposed and seconded to refuse the application for the following reason:

The impact of construction traffic and from 100 dwellings, in advance of the approved Willington Street/Deringwood Drive junction improvement, would result in unacceptable and severe impacts upon highway safety conditions for pedestrians and cyclists crossing the existing junction, as considered by the Appeal Planning Inspector. The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route 17. This would be contrary to policy DM21 of the Maidstone Borough Local Plan (2017), policies ST1 and ST2 of the Otham Parish Neighbourhood Plan (2020-2035), and Paragraphs 110 and 111 of the National Planning Policy Framework.

- 1.02 This Motion triggered the procedure set out in paragraph 31.3 of Part 3.1 of the Council's Constitution. Pursuant to that procedure, the Head of Planning and Development advised the Committee he did not consider the reason for refusal was sustainable at Appeal and that it would more likely than not cause significant cost implications to be incurred by the Council because of unreasonable behaviour. The threshold for 'significant costs' under this procedure is set at £50,000. As a result, the Constitution requires that the Committee's decision be deferred to its next meeting on 24th March 2022 to enable the provision of further advice on the risks involved in pursuing a refusal.

- 1.03 Paragraph 31.3 (b) of Part 3.1 states at the next meeting (24th March),

"If, during consideration at the next meeting of an application deferred under Rule 31.3(a), after a motion has been proposed and seconded, the Head of Planning and Development or their representative, in consultation with the Legal Officer present at the meeting, believes that the Planning Committee's reasons to justify refusal/the imposition of conditions would not be sustainable at appeal and would more likely than not cause significant cost to be incurred by the Council because of unreasonable behaviour, then they will inform the Committee that if the motion is agreed it will be referred to the Policy and Resources Committee upon the agreement of the Planning Committee Chairman and Vice-Chairman; or failing which, a resolution of the Planning Committee to that effect."

- 1.04 Paragraph 31.3(c) then states,

"Following the vote, if the motion was agreed, the Head of Planning and Development or their representative will ask the Chairman and Vice-Chairman if they agree to refer the decision to Policy and Resources Committee. If they do not both agree to the referral, the Committee will take a vote on whether to refer the item to the Policy and Resources Committee."

If either consent is given, the item will be referred. If neither consent is given, the decision will be implemented."

2.0 UPDATES & ADVICE

2.01 During the intervening period since 17th February meeting,

- (1) The Applicant has lodged an Appeal with the Planning Inspectorate;
- (2) Although not relevant to the reason for refusal, the Applicant has provided further evidence as to the traffic impacts on the road network to 2024; and
- (3) Officers have sought Counsel's advice on the proposed ground of refusal and the associated risk of costs at appeal. Instructions to Counsel together with Counsel's full advice (which pre-dates the appeal being lodged) are attached as an **Exempt Appendix** to this report.

New Appeal

2.02 On 10th March the applicant submitted an Appeal to the Planning Inspectorate (PINS) on the grounds of 'non-determination' of the application following expiry of the agreed determination date of 25th February. The applicant has requested a Public Inquiry and officers have advised PINS they consider this procedure is appropriate given the level of local interest. PINS have advised that, subject to validation, the appeal will follow this procedure but at the time of publishing this report, no 'start date' for the appeal has been given by PINS.

2.03 This means the decision on this application now lies with PINS and not the Council. The decision now made by Committee will be to inform PINS what decision the Council 'would have' made and therefore what position MBC will take at the Appeal. It remains the case that any refusal must be defended by the Council at the Appeal.

Additional Transport Evidence

2.04 As outlined at paragraph 6.09 of the original committee report, the application is supported by traffic modelling in 2023 when the occupation of 100 houses is predicted at the end of that year. The applicant has now submitted additional traffic modelling up to 2024 and states,

"We are still of the view that the 100 occupation forecast by the end of 2023 is appropriate and robust but want this to be part of the application documents for completeness, should the application/appeal process stretch on further than current timescales."

2.05 This forecasts that the WS/DD junction would still remain within capacity in 2024 and KCC Highways have been consulted, agree with the evidence, and maintain their position of raising no objections. This does not affect the grounds for refusal proposed by Members as they relate to highway safety and not traffic congestion. However, if Members decide that they would have approved permission, within this, condition 30 should be amended to remove

reference to 31st December 2023 and just have a trigger point of '100 occupations'.

Advice

- 2.06 As outlined in the original committee report at paragraph 6.07, the Planning Inspector's explanation for the condition being set at 'slab level' when asked in relation to this current application is as follows (*my emphasis*):

"The only comment I can make is that my decision states the following at paragraph 185:

Also in the interests of highway safety, conditions are necessary requiring the provision of the site accesses, off-site highway improvements, measures to maintain the access visibility splays and the provision of parking/turning areas for each building (conditions Nos. 7, 29, 30 and 32). However, I have amended the suggested condition relating access to ensure that the access points are provided prior to the commencement of any development above slab level.

*The reason for the condition is in the interest of highway safety. This was discussed in the 'round table session' on conditions. It was my view that the off-site traffic management measures should be completed as soon as possible before substantive deliveries of materials and construction works occurred. This was not an amenity issue **but a highway safety matter** given the nature of the surrounding highway network and the relative matters discussed in the Inquiry."*

- 2.07 The key issue in determining this Section 73 application is therefore whether new material has come to light which justifies a different view to that of the Planning Inspector as to the safety implications of construction traffic upon the highway network prior to the highway improvements coming forward.

- 2.08 The applicant has provided new material/evidence relating to the additional traffic impact within their application and their view on the impact of construction traffic in their Transport Technical Note (June 2020 paragraphs 1.3.1 and 1.3.2) as follows:

"...the sole purpose of the WS/DD signalisation scheme is to mitigate the impact of the additional vehicle, pedestrian and cycle trips arising from the permanent development, rather than its construction phase. The existing junction layout is of a sufficient standard to safely and efficiently accommodate larger vehicle turning movements, and indeed already does so on a regular basis (being on a high-frequency bus route, for example).

Construction traffic will be low-intensity and scheduled outside of the network peak hours wherever possible, as confirmed in the submitted Construction Environmental Management Plan (April 2021)."

and in their Technical Note (October 2021 paragraph 1.6.6) as follows:

"The Construction and Environmental Management Plan confirms that construction vehicles will be timed to arrive and depart the site outside of the network peak hours. Moreover, it is noted that the WS/DD junction is currently accessed by buses, refuse and delivery vehicles on a daily basis and as such is safe and suitable to accommodate these larger vehicle types."

2.09 KCC Highways have assessed this new material/evidence and in relation to highway safety impacts from construction traffic and from up to 100 houses (which is the grounds for refusal) advise that (*my emphasis*),

"I can confirm that KCC Highways have assessed the impact of the proposals in safety, as well as capacity terms.

The existing junction arrangement is designed to a high standard. This is characterised by extensive carriageway widths, junction widths, wide junction radii and the provision of a ghost right turn lane (GRTL) on Willington Street itself. In addition, as highlighted within KCC Highways final consultation response and the applicant's further Transport Technical Notes Deringwood drive is a bus route. Consequently, large vehicles already use the junction without adversely impacting upon overall levels of highway safety.

*I have checked the personal injury collision (PIC) record at the junction in question and can confirm that in the last 5-year period up to September 2021 3 collisions have been recorded. All 3 collisions were slight in severity, with driver error a contributory factor in all the recorded collisions. The layout or geometry of the junction is not a contributory factor in any of the collisions. **The good PIC record at the junction, coupled with the fact that the junction is already used by large vehicles demonstrates that there is no evidence to indicate that construction traffic would adversely impact upon overall levels of highway safety.***

2.10 Therefore, new material/evidence has been provided by the applicant which was not before the Planning Inspector at the original Appeal, and the advice on this new material/evidence from the qualified expert highways officers at KCC is:

- There is no evidence that construction traffic would adversely impact upon highway safety in advance of the WS/DD highway improvements coming forward.
- The proposal (to move the condition trigger point) would not result in a severe residual impact upon the highway network (congestion).
- By implication, the proposed change to condition 30 would not result in a development which is contrary to the NPPF and/or the Local Plan.

Proposed Reason for Refusal

2.11 In considering the ground of refusal it is important that Members are reminded of the need to give full, clear, and precise reasons and refer to all relevant Development Plan policies. Whilst they may be briefly stated, the courts have stated that the reasons must be "proper, adequate and intelligible" particularly in controversial cases where they disagree with an officer's recommendation.

2.12 In terms of the guidance on the award of costs at appeal, Paragraph: 028 Reference ID: 16-028-20140306 of National Planning Practice Guidance states (*my emphasis*):

"The aim of the costs regime is to [inter alia]:

- *encourage local planning authorities to properly exercise their development management responsibilities, **to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case**, not to add to development costs through avoidable delay, ..."*

2.13 Paragraph 049 Reference ID: 16-049-20140306 states.

"What type of behaviour may give rise to a substantive award against a local planning authority?

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- ***failure to produce evidence to substantiate each reason for refusal on appeal***
- ***vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.***

(This list is not exhaustive.)"

2.14 It is therefore necessary to consider:

- Whether there is evidence to substantiate the proposed reason for refusal; and
- Whether the proposed reason for refusal is supported by objective analysis or whether it would be likely to be categorised as 'vague, generalised assertions' about the proposals impact.

2.15 In respect of the ground that the change to condition 30 would, *"result in unacceptable and severe impacts upon highway safety conditions for pedestrian and cyclists crossing the existing junction, as considered by the Appeal Planning Inspector"*, officers advise that the ground does not identify any specific reasons why construction vehicles will give rise to unacceptable risks to safety. There is also no evidence, such as accident data, to counter the points made by KCC officers relating to the standard of the junction, the layout of the junction, that large vehicles (buses) already use the route without safety implications, the good personal injury collision record, and the absence of layout or geometry contributing to the accidents which have occurred.

2.16 In short, it is advised that the ground does not offer a specific explanation backed up with evidence as to why the junction will become unsafe for pedestrians and cyclists from the addition of construction traffic.

- 2.17 In respect of the assertion that, "*The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route 17*", officers advise that this must be backed up by evidence such as walking/cycling surveys of the WS/DD junction to show it is well-used by pedestrian and cyclists, and this would need to be outside network peak hours (8am-9/5pm-6) because the approved construction management plan requires construction/delivery vehicles are timed to arrive and depart outside these hours. The Council does not have this specific evidence, and so officers advise that this is also likely to be viewed as a 'generalised assertion'.
- 2.18 It is advised that the reference to the Appeal Inspector within the grounds of refusal cannot be relied upon as the material/evidence presented by the applicant and accepted by KCC Highways for this new application was not before him. As the Inspector did not have any evidence of the impact of construction traffic beyond slab level or from 100 units before him, or the updated material/evidence relating to highway safety, it would be unreasonable to rely upon the Inspector's previous conclusions relating to highway safety.

3.0 CONCLUSION

- 3.01 Officers advise that the proposed reason for refusal does not provide a rational basis for refusing the section 73 application and could not be sustained at the appeal. Since the proposed reason for refusal could not be sustained and the circumstances fall within those the NPPG identifies as meriting an award of costs against a local planning authority, it is likely that a refusal based on the proposed ground would not be successful at the Appeal and would result in an award of significant costs against the Council for unreasonable behaviour.
- 3.02 The Appeal is likely to proceed under the Public Inquiry procedure and the applicant would have legal representation, and present expert highways and planning evidence to rebut any case presented by the Council. In the opinion of officers, the costs implications of this will exceed the £50,000 threshold for 'significant' costs within the Council's Constitution.
- 3.03 Given their consultation responses, KCC would not be able to support the local planning authority at the Appeal so the Council would need to appoint an external highways consultant to defend any refusal. Whilst unknown at this stage, Members must be aware there is a possible scenario whereby the Council may not be able to secure a qualified highways witness willing to defend the ground of refusal.
- 3.04 For the reasons outline above, our advice is that the Committee should reconsider its position in relation to this application and advise the Planning Inspectorate that they 'would have' approved permission as set out in the original committee report subject to the change to condition 30 in the terms set out at paragraph 2.05.
- 3.05 Notwithstanding this advice, should Members continue with the ground for refusal it is recommended that the following amendments are made:

- Remove reference to the Appeal Inspector for the reasons outlined at paragraph 2.18.
- Remove reference to the traffic impact from 100 dwellings as the 'slab level' trigger was only applied in relation to safety implications from construction traffic; and correct to Cycle Route 177 (not 17).

The ground for refusal would therefore read:

*The impact of construction traffic ~~and from 100 dwellings~~, in advance of the approved Willington Street/Deringwood Drive junction improvement, would result in unacceptable and severe impacts upon highway safety conditions for pedestrians and cyclists crossing the existing junction, ~~as considered by the Appeal Planning Inspector~~. The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route **177**. This would be contrary to policy DM21 of the Maidstone Borough Local Plan (2017), policies ST1 and ST2 of the Otham Parish Neighbourhood Plan (2020-2035), and Paragraphs 110 and 111 of the National Planning Policy Framework.*

3.06 Members are reminded that they are required to give reasons for their decision. As outlined above, the reasons must be "*proper, adequate and intelligible*" and can be briefly stated.

Case Officer: Richard Timms

APPENDIX

REFERENCE NO - 21/503585/FULL			
APPLICATION PROPOSAL Section 73 - Application for Variation of condition 30 (to vary the trigger point for the delivery of the Willington Street/Deringwood Drive improvements, to prior to occupation of 100 units, rather than prior to commencement above floor slab level) pursuant to application 19/506182/FULL (Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping, allowed on appeal)			
ADDRESS Land West of Church Road, Otham, ME15 8SB			
RECOMMENDATION – APPROVE WITH CONDITIONS			
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • It has been demonstrated the traffic associated with 100 houses/units and construction vehicles would not result in a severe traffic or safety impact and so can be accommodated at the existing Deringwood Drive/Willington Street junction, and no objections have been raised by the Highways Authority. • It is therefore acceptable to move the trigger for the implementation of the junction improvement to the occupation of 100 units or 31st December 2023 (whichever is the sooner). 			
REASON FOR REFERRAL TO COMMITTEE <ul style="list-style-type: none"> • Otham Parish Council strongly objects to the proposals for the reasons outlined in the report. • Councillor Newton has requested the application is considered by the Planning Committee. 			
WARD Downswood & Otham	PARISH COUNCIL Otham	APPLICANT Bellway Homes Ltd AGENT None	
DECISION DUE DATE: 25/02/22	PUBLICITY EXPIRY DATE: 15/11/22	SITE VISIT DATE: Various in 2021/2022	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
19/506182	Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.	REFUSED & ALLOWED AT APPEAL	07/01/21
19/501600	Outline application for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space (Access being sought with all other matters reserved for future consideration)	REFUSED & ALLOWED AT APPEAL	07/01/21

1.0 DESCRIPTION OF SITE

1.01 The application relates to the 'Land West of Church Road' housing allocation site (H1(8)) where full and outline permission was allowed at appeal in January 2021 subject to conditions. The site is to the southeast of Maidstone and is between substantial residential areas to the north, west and southwest. To the east are open agricultural fields and immediately to the south/southeast are a number of detached residential properties at The Rectory (Grade II listed) and Squerryes Oast. St Nicholas's Church (Grade I listed) and Church House (Grade II listed) are to the north of the site.

2.0 PROPOSAL

2.01 This is a 'section 73' application to vary condition 30 of the appeal decision.

Condition 30 states as follows:

The development shall not commence above floor slab level until the following off-site highways works have been provided in full:

- a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the local planning authority;*
- b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;*
- c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019'.*

2.02 The applicant is proposing to change the trigger point for providing the improvements (signalisation) to the Deringwood Drive/Willington Street (DD/WS) junction listed under part (b) from 'slab level' to the occupation of 100 houses/units. The trigger for the delivery of parts (a) and (c) would not change.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP3, SP23, H1, H1(8), DM1, DM21
- Otham Neighbourhood Plan (2021): ST1, ST2
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Guidance

4.0 LOCAL REPRESENTATIONS

4.01 **Otham Parish Council:** Strongly object to the application for the following (summarised) reasons:

- Delay to the Willington Street/Deringwood Drive improvements is unacceptable.

- The Planning Inspector clearly stated the mitigation should be in place prior to occupation and that the junction cannot remain to operate within its existing arrangement over the next few years with the various committed development schemes in southeast Maidstone.
- The Inspector was very clear that the safety of pedestrians needs to be addressed at this already busy junction and this should be by signalling prior to construction above slab level.
- Concern that there has been no counting of pedestrian or cyclists who cross at the junction as it is already extremely difficult for them to cross and this will only be exacerbated with more traffic.
- Do not agree that the impacts of the construction period will not materially impact the junction and would like to see evidence.
- Safety of pedestrians and cyclists is paramount.
- Provided a video of a HGV turning in the junction and delaying traffic.

4.02 Bearsted Parish Council (neighbouring): Raises objections in the strongest possible terms due to it conflicting with the restrictions put in place by the Planning Inspectorate and KCC.

4.03 Bearsted & Thurnham Society: Raises objections for the following (summarised) reasons:

- Appears to be a well-practiced approach by developers to delay off-site works until they have started to accumulate profits from the sale of properties.
- Developers have little regard to their own customers, let alone existing residents.
- Developer is only concentrating on traffic and ignoring cyclist and pedestrians that will be catered for in the signalised junction.
- New residents will establish travel plans before the toucan crossing is in place.
- Delays to infrastructure while developers continue to add traffic problems is unacceptable.

4.04 Chapman Avenue Area Residents Association: Raises the following (summarised) points:

- Strong objection.
- The trigger point was a clearly thought through issue by the Inspector for various reasons.
- Development up to slab level will result in an increase in HGV traffic for construction and greater pressure on the already over congested Willington Street, especially at the Deringwood Drive junction.
- Existing residents considerably obstructed by new HGV traffic and increased danger.
- Danger to pedestrians and cyclists at junction.
- Ignoring HGV construction traffic.
- Any delay to the sale of houses is no justification.
- Junction improvement should not be seen in isolation.
- Do not consider evidence is accurate.

- An approval would fly in the face of the careful conditions laid down by the Inspector in deciding to grant permission and in contravention of the Council's own position.
- Whilst fitting in the road improvement may cause a slowdown of the development, safety and convenience of Maidstone residents and road users must take priority.
- Construction traffic has not been assessed.
- Disingenuous to make a point that the approved Construction Management Plan will mitigate arrival times of construction and deliveries to the site.
- Why didn't applicant make these points at the appeal.
- Additional traffic volume data that was not available to the Inspector.

4.05 **Local Residents:** 45 representations received raising the following (summarised) points:

- Improvement must be carried out as per the Inspector's requirement in full and on time, and not delayed.
- An approval would fly in the face of the Planning Inspector's requirement.
- The Planning Inspector continues to require compliance with the condition.
- Applicant should manage dependencies with 3rd parties such as KCC.
- Applicant should honour the terms of the agreed permission.
- The applicant accepted the condition at the appeal.
- Delay will cause inconvenience to local residents and delay improvements to the national cycle route.
- The improvement is required to mitigate construction traffic and other committed developments, not just the traffic of new residents.
- Policy DM21 requires mitigation measures ahead of development being occupied.
- The junction improvement is required for the safety of pedestrians and cyclists including from construction traffic.
- There has been no counting of pedestrians or cyclist who currently use the junction or evidence that construction traffic will not materially impact the junction.
- Selling houses is not a justification to delay the junction works.
- If the improvement could have been delayed the Inspector would have said so.
- Junction is already over capacity and 100 houses will cause further delay.
- There will be substantial queuing with construction traffic.
- Construction traffic has not been assessed.
- Works are key to maintaining safety.
- Signalisation should be cancelled and will not work.
- Not in line with draft Economic Development Strategy.
- Improvement is required for safety.
- If KCC are unable to fulfil their provision of a 'street works permit' in the required time, this should have been taken into consideration.
- The delay will only benefit the applicant.
- Pollution.

4.06 **Borough Councillor Newton** requests the application is considered by the Planning Committee and raises the following (summarised) points:

- Refers to the video of a HGV turning in the junction and delaying traffic.

- Has seen a HGV lorry that could not get up the Willington Street hill from a standing start and delayed traffic.
- When snow and ice arrives there will be chaos in Willington Street.

4.07 **Borough Councillor Springett:** Strongly objects and raises the following (summarised) points:

- The impact of the development on this junction is already a concern.
- To delay the junction improvements will be a safety hazard.
- Large construction vehicles will be needed to bring the materials to build the 99 properties and will be slow moving at this turn and combined with the addition vehicle movements caused by the vehicles from the occupied houses will create a danger to road users.
- Application should be rejected on the grounds of safety.

4.08 **Maidstone Cycle Campaign Forum:** Raise the following (summarised points):

- The junction carries national cycle route 177 and a condition of the development was to upgrade this to improve options for pedestrian and cyclists in the area. This is part of the mitigation of the harm and the improvements need to be provided in line with the timescales set out by the Inspector.

5.0 CONSULTATIONS

Only consultee responses relevant to the proposals are set out below (those relating to highways):

5.01 **Highways England: No objections.**

5.02 **KCC Highways: No objections.**

Traffic Impacts

"KCC Highways has some concerns over the additional local congestion this development would create. The National Planning Policy Framework (NPPF) states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. That can only be judged on a case by case basis, taking account of all material factors.

KCC Highways has considered the traffic assessment and the current and likely future conditions on the local highway network. This shows that the situation is likely to be worsened, but KCC Highways are not able to conclude that it will result in conditions that could be described as a severe impact on congestion or safety. However, your Members should be made aware that the residual impact of this development is likely to be characterised by additional local traffic generation and some consequent increase in congestion, which the applicant cannot fully mitigate.

On this basis it is concluded that an objection to the proposed occupation of 100 dwellings prior to the provision of the Deringwood Drive junction improvement cannot not be justified in this instance.”

Highway Safety

“I can confirm that KCC Highways have assessed the impact of the proposals in safety, as well as capacity terms.

The existing junction arrangement is designed to a high standard. This is characterised by extensive carriageway widths, junction widths, wide junction radii and the provision of a ghost right turn lane (GRTL) on Wellington Street itself. In addition, as highlighted within KCC Highways final consultation response and the applicant’s further Transport Technical Notes Deringwood drive is a bus route. Consequently, large vehicles already use the junction without adversely impacting upon overall levels of highway safety.

I have checked the personal injury collision (PIC) record at the junction in question and can confirm that in the last 5-year period up to September 2021 3 collisions have been recorded. All 3 collisions were slight in severity, with driver error a contributory factor in all the recorded collisions. The layout or geometry of the junction is not a contributory factor in any of the collisions. The good PIC record at the junction, coupled with the fact that the junction is already used by large vehicles demonstrates that there is no evidence to indicate that construction traffic would adversely impact upon overall levels of highway safety.”

6.0 APPRAISAL

6.01 Planning permission has already been granted for the development and this application proposes to make changes to part of condition 30 only. In line with section 73 of the Town and Country Planning Act 1990, the local planning authority can only consider the consequences of the proposed changes to the condition and cannot re-visit the principle of the development or any other matters relating to the permission.

6.02 Whilst not a factor in making a decision and for information purposes, the applicant has stated they are applying to change the condition because through their discussions with the Highways Authority, they do not consider it will be possible to gain the necessary ‘street works permit’ or ‘road space’ to enable the works to proceed prior to development commencing above slab level. They want to commence the development following discharge of all pre-commencement conditions, which is potentially imminent as the final conditions are on this same committee Agenda. In terms of timescales the applicant states that, “*assuming we get a positive decision at the 17th February committee for the last 2 prestart conditions, we will be keen to commence as soon as practicable after that. We will then be at slab level for the first units around 3 months later, mid-May time. The 100th occupation based on a site start mid-February will be around Oct/Nov 2023.*”

- 6.03 I have asked KCC Highways for their view and estimate of when they anticipate the works can be programmed and they have advised that discussions on the availability of 'road space' will not take place until after the technical approval process for the highway works (section 278 agreement) is signed. This has not taken place yet but is expected to be soon.
- 6.04 Many representations consider that the developer should wait for 'road space' to be available, however, any applicant is entitled to make an application to change a condition and the local planning authority must assess the implications of the proposed change and reach a decision based on the information/evidence provided.

Planning Inspector's Reasons for Condition

- 6.05 Planning Inspector's do not put specific reasons for conditions as is the case for planning authorities but discussion of the DD/WS junction can be found at paragraphs 36-58 of the Appeal Decision (attached at **Appendix 1**). At paragraphs 175 and 185 it states the off-site junction and highway improvement works are necessary in the interest of 'highway safety and flow of traffic'.
- 6.06 The main justification for the junction improvement itself was to mitigate the traffic impact of the development but the Inspector acknowledged that it would also introduce an improved crossing for pedestrians and cyclists at paragraph 42.
- 6.07 In terms of the trigger for delivery of the junction works, this is usually set at 'prior to occupation' because applicants are only required to assess the impact of the 'development' traffic itself (i.e. the new houses) and occupation is when this additional traffic will occur. In this case, the Inspector set it at 'slab level' but no explanation is provided in the written decision. I have therefore asked the Inspector and he has stated as follows:

"The only comment I can make is that my decision states the following at paragraph 185:

Also in the interests of highway safety, conditions are necessary requiring the provision of the site accesses, off-site highway improvements, measures to maintain the access visibility splays and the provision of parking/turning areas for each building (conditions Nos. 7, 29, 30 and 32). However, I have amended the suggested condition relating access to ensure that the access points are provided prior to the commencement of any development above slab level.

The reason for the condition is in the interest of highway safety. This was discussed in the 'round table session' on conditions. It was my view that the off-site traffic management measures should be completed as soon as possible before substantive deliveries of materials and construction works occurred. This was not an amenity issue but a highway safety matter given the nature of the surrounding highway network and the relative matters discussed in the Inquiry."

- 6.08 So whilst not explicit in the appeal decision, the Inspector has advised that the earlier trigger was based on highway safety to limit the amount of construction traffic before the junction works take place. So, it is appropriate to consider the highway safety implications of additional 'construction' traffic beyond slab level in addition to the traffic associated with 100 houses as part of this assessment.

Traffic Impact of 100 Houses

- 6.09 The applicant has provided an assessment of the impact of up to 100 houses at the WS/DD junction and provided all further information requested by KCC Highways. The assessment has been modelled in 2023 when the occupation of 100 houses is predicted at the end of that year. The applicant has been asked to provide further justification as this is now less than 2 years away and has stated as follows:

"With regards to the occupation of the 100th unit, I have spoken to both the site manager and to the Managing Director at Bellway to get a definitive view. They have confirmed that their projections put the 100th unit occupation at Oct/Nov 2023. This would be around 20 months. After a short period of site set up as soon as the pre-start conditions are through (hopefully on 17th Feb) they will be into delivery straight away. The HA units are some of the first phase and these are a mixture of flats and 2/3 beds and are all transferred on construction for occupation.

As a comparison, I understand the Bicknor Wood site took circa 22 months to occupy the 100th unit. This started in Oct 2018 and achieved the 100th unit in August 2020. Whilst very similar in timing this was at a different period of the general market and crucially a lot of the first 100 were detached larger units which take longer to construct and sell. The delivery has significantly increased since then due to some smaller units coming forward and the market being strong. They have currently occupied 229 units. The first 100 of the Church Rd site are mostly HA and mostly of a smaller nature of flats, semi-detached and terraces so will be quicker and there is a very strong market for the private units at present too. We are therefore very confident that the delivery rate set out above is realistic and will be delivered. This also factors in the highways and junction works to Church Rd."

- 6.10 Based on the rate of build/occupation at the Bicknor Wood site it is considered reasonable that with commencement at the beginning of March 2022, 100 occupations could be reached by the end of 2023 (20/21 months). This is however quite a tight timescale so it would be appropriate to put a time limit on providing the WS/DD junction works (end of 2023) in addition to 100 occupations, or whichever is the sooner, in any approval.
- 6.11 The modelling of the WS/DD junction considers the cumulative effect of background traffic growth, wider committed development, and 100 houses at the Church Road site, and forecasts that the WS/DD will operate well within its design capacity. The maximum impact is the DD arm being at 81.9% capacity in the AM peak, otherwise the impact is in the 50% range.
- 6.12 Although not directly relevant to this application, the evidence also assesses the WS/Madginford Road and the A20/WS junctions due to the potential

knock-on effects and predicts an increased delay of approximately 6 seconds will occur when travelling across the three junctions.

6.13 KCC Highways have reviewed the evidence and raise no objections. They point out that local traffic levels will be worsened with increases in congestion but do not conclude it will result in conditions that could be described as a severe impact on congestion or safety.

6.14 Policy DM21 of the Local Plan states that the development proposals must, *"Demonstrate that the impacts of trips generated to and from the development are accommodated, remedied or mitigated to prevent severe residual impacts, including where necessary an exploration of delivering mitigation measures ahead of the development being occupied."*

6.15 For the above reasons, the applicant has demonstrated the trips generated from up to 100 houses can be accommodated and so it is considered acceptable to vary the trigger for delivery of the WS/DD junction to 100 houses or by 31st December 2023 (whichever is the sooner). Delivery at this point would then sufficiently mitigate the traffic impact of this amount of development (100 houses) and so it would not contravene policies SP23 or DM21 of the Local Plan or the NPPF.

Highway Safety

6.16 KCC Highways have confirmed they have no objections from a safety point of view with use of the existing WS/DD junction by up to 100 houses from the development and construction vehicles. This is understandable as the existing junction accommodates all modes of traffic and is used by cars, buses, and refuse vehicles. They state,

"The existing junction arrangement is designed to a high standard. This is characterised by extensive carriageway widths, junction widths, wide junction radii and the provision of a ghost right turn lane on Willington Street itself. In addition, as highlighted within KCC Highways final consultation response and the applicant's further Transport Technical Notes, Deringwood drive is a bus route. Consequently, large vehicles already use the junction without adversely impacting upon overall levels of highway safety."

I have checked the personal injury collision (PIC) record at the junction in question and can confirm that in the last 5-year period up to September 2021, 3 collisions have been recorded. All 3 collisions were slight in severity, with driver error a contributory factor in all the recorded collisions. The layout or geometry of the junction is not a contributory factor in any of the collisions. The good PIC record at the junction, coupled with the fact that the junction is already used by large vehicles demonstrates that there is no evidence to indicate that construction traffic would adversely impact upon overall levels of highway safety."

6.17 In addition, the approved Construction Management Plan (ref. 21/502372/SUB), requires that construction/delivery vehicles are timed to arrive and depart outside the network peak hours (8am-9/5pm-6) where there would be more traffic and likely to be more pedestrians and cyclists.

- 6.18 So whilst the Inspector's reason for the earlier trigger for the junction improvement was highway safety relating to construction vehicles, there is no evidence to demonstrate the existing junction is not capable of safely accommodating construction traffic, and the Highways Authority raises no objections to the later trigger. Therefore, it is considered acceptable to vary the trigger for delivery of the WS/DD junction to 100 houses as there would be no highway safety issues to warrant refusal in accordance with policy DM1 of the Local Plan and the NPPF.

Walking & Cycling

- 6.19 The new junction would provide controlled crossing facilities for pedestrians and cyclists and so help to promote walking and cycling through to Mote Park. As pointed out in some representations, these crossings would not be in place despite up to 100 houses being occupied and such improvements are usually required prior to occupation to influence travel behaviour from the outset. However, this is not considered a sufficient reason to refuse permission and also bearing in mind the primary reason for the junction improvement was to mitigate traffic congestion.

Representations

- 6.20 Representations in general relate to traffic congestion, highway safety, and pedestrian/cycle use of the junction, which has been considered above.
- 6.21 Some representations consider the WS/DD junction is already over capacity and refer to the Appeal Decision and the Inspector's comments between paragraphs 38 and 41 where he states,

"38.The submitted information identifies that, on completion of local committed developments, the junction will experience capacity issues, specifically on the Deringwood Drive arm, with drivers unable to exit this arm due to the increasingly heavy traffic volumes on Willington Street. This issue would be exacerbated by the implementation of the proposed development."

"41. Therefore, irrespective of whether the appeal schemes are allowed, the submitted Transport Assessment suggests that the WS/DD junction cannot remain to operate within its existing arrangement over the next few years with the various committed development schemes currently completed or under construction in south-east Maidstone."

- 6.22 The Inspector did not state the WS/DS junction was over capacity at the time of the Appeal and was referring to the 'next few years' or 'on completion of local committed developments'. However, it is noted at paragraph 40 he refers to the 'Iceni Transport Note' (September 2019), which forecasted the DD arm of the junction would be at 138% in 2019. I have asked the applicant for an explanation as to why their forecast in 2023 is much lower and they state,

"Paragraph 40 of the appeal decision refers to the assessment undertaken by Iceni which included a significant over-estimate of the build-out of wider committed developments and background traffic growth in their 2019 horizon test."

You may recall that in my Rebuttal Statement to the Inquiry, I explained that we had refined our approach to the inclusion of committed developments and background traffic growth to address this issue.

Our more recent work for the S.73 application has also factored in MBC's latest housing trajectory and known build-out positions on local sites, which are behind what was anticipated pre-Covid."

6.23 The latest evidence has been accepted by the Highways Authority and does not include 6 developments that were in the original 'Iceni' evidence because they will either not come forward by 2023 (permissions have lapsed) or have been completed and so are already on the network. It also shows that the Iceni forecasts did not occur. Ultimately it shows the WS/DD junction will not be over capacity with 100 houses in 2023 and this has been accepted by the Highways Authority.

6.24 There is also a general view that any approval would fly in the face of the conditions laid down by the Inspector and so there should not be any change. Officers can understand this view, however, the applicant is entitled to apply for changes to conditions and has provided additional evidence to demonstrate this is acceptable (which was not before the Inspector), to which no objections have been raised by the Highways Authority, and with which officers agree.

7.0 CONCLUSION

7.01 For the above reasons it is considered acceptable to change the trigger for the WS/DD junction improvements to 100 occupations and the new condition would read as follows:

The development shall not commence above floor slab level until the following off-site highways works have been provided in full:

- a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the local planning authority;***
- b) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019'.***

The following off-site highways works shall be provided no later than the occupation of 100 units or 31st December 2023, whichever is the sooner. The development shall not be occupied beyond this point until these off-site highways works have been provided:

- c) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;***

7.02 An approval will create a new planning permission and so all conditions must be re-attached. These are set out below where some refer to details already approved, and some to details under consideration. The section 106 legal agreement relating to the original permission has a clause (8.3) which ties it to any new permission so there is no requirement for a new legal agreement.

8.0 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Conditions:

Time limit

- 1) The development hereby permitted shall begin before 7th January 2024.

Details and drawings subject to the permission

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

Location plan - 16206 S101 Rev A
Existing Site Survey – 16206 S102 Rev B
Site Layout Masterplan – 16206 P101 Rev U
Coloured Site Layout Masterplan – 16206 C101 Rev S
Site Layout (North) – 16206 P102 Rev D
Site Layout (South) – 16206 P103 Rev B
Site Layout (Colour coded by type) – 16206 P104
Site Layout (Hard surfaces) – 16206 P105 Rev A
Proposed Street Scenes A-A & B-B -16206 P110 Rev E
Proposed Street Scenes C-C & D-D – 16206 P111 Rev E
Proposed Street Scenes E-E to G-G – 16206 P112 Rev D
Proposed Street Scenes H-H & J-J – 16206 P113 Rev E
Proposed Street Scenes K-K to M-M – 16206 P114 Rev D
Proposed Street Scenes N-N & P-P – 16206 P115 Rev D
Proposed Street Scenes Q-Q & R-R – 16206 P116 Rev D
Coloured Street Scenes A-A & B-B – 16206 C110 Rev D
Coloured Street Scenes C-C & D-D – 16206 C111 Rev D
Coloured Street Scenes E-E to G-G – 16206 C112 Rev C
Coloured Street Scenes H-H & J-J – 16206 C113 Rev B
Coloured Street Scenes K-K to M-M – 16206 C114 Rev B
Coloured Street Scenes N-N & P-P – 16206 C115 Rev B
Coloured Street Scenes Q-Q & R-R – 16206 C116 Rev B
Affordable House types, 2 Bedroom – 16206 P120
Affordable House types, 3 Bedroom (1 of 2) – 16206 P121
Affordable House types, 3 Bedroom (2 of 2) – 16206 P122
Affordable House types, 4 Bedroom – 16206 P123 Rev A
Private 2 Bed Houses - Type 2A (1 of 2) – 16206 P130 Rev A

Private 2 Bed Houses - Type 2A (2 of 2) - 16206 P131 Rev A
Private 2 Bed Houses - Type 2A & 2B terrace – 16206 P132 Rev A
Private 2 Bed Houses - Type 2B (1 of 3) – 16206 P133 Rev A
Private 2 Bed Houses - Type 2B (2 of 3) – 16206 P134 Rev A
Private 2 Bed Houses - Type 2B (3 of 3) – 16206 P135 Rev A
Private 3 Bed Houses - Type 3A (1 of 2) – 16206 P136
Private 3 Bed Houses - Type 3A (2 of 2) – 16206 P137
Private 3 Bed Houses - Type 3B (1 of 2) – 16206 P138 Rev A
Private 3 Bed Houses - Type 3B (2 of 2) – 16206 P139 Rev B
Private 3 Bed Houses - Type 3C (1 of 2) – 16206 P140 Rev C
Private 3 Bed Houses - Type 3D (1 of 3) – 16206 P141
Private 3 Bed Houses - Type 3D (2 of 3) – 16206 P142
Private 3 Bed Houses - Type 3D (3 of 3) – 16206 P143
Private 3 Bed Houses - Type 3D/3B (1 of 7) – 16206 P144
Private 3 Bed Houses - Type 3D/3B (2 of 7) – 16206 P145 Rev A
Private 3 Bed Houses - Type 3D/3B (3 of 7) – 16206 P146
Private 3 Bed Houses - Type 3D/3B (4 of 7) – 16206 P147
Private 3 Bed Houses - Type 3D/3B (5 of 7) – 16206 P148 Rev A
Private 3 Bed Houses - Type 3D/3B (6 of 7) – 16206 P149 Rev A
Private 3 Bed Houses - Type 3D/3B (7 of 7) – 16206 P150 Rev A
Private 3 Bed Houses - Type 3E – 16206 P151 Rev B
Private 3 Bed Houses - Type 3C (2 of 2) – 16206 P152 Rev A
Private 3 Bed Houses - Type 3C1 – 16206 P153
Private 4 Bed Houses - Type 4A (1 of 2) – 16206 P155
Private 4 Bed Houses - Type 4A (2 of 2) – 16206 P156
Private 4 Bed Houses - Type 4B (1 of 4) – 16206 P157 Rev A
Private 4 Bed Houses - Type 4B (2 of 4) – 16206 P158 Rev A
Private 4 Bed Houses - Type 4B (3 of 4) – 16206 P159 Rev A
Private 4 Bed Houses - Type 4B (4 of 4) – 16206 P160 Rev B
Private 4 Bed Houses - Type 4C – 16206 P161
Private 4 Bed Houses - Type 4D (1 of 4) – 16206 P162
Private 4 Bed Houses - Type 4D (2 of 4) – 16206 P163 Rev B
Private 4 Bed Houses - Type 4D (3 of 4) – 16206 P164 Rev A
Private 4 Bed Houses - Type 4D (4 of 4) – 16206 P165 Rev A
Affordable apartments - Block 1 Plans (1 of 2) – 16206 P170 Rev B
Affordable apartments - Block 1 Plans (2 of 2) – 16206 P171 Rev B
Affordable apartments - Block 1 Elevations – 16206 P172 Rev B
Affordable apartments - Block 2 Plans (1 of 2) – 16206 P173 Rev B
Affordable apartments - Block 2 Plans (2 of 2) – 16206 P174 Rev B
Affordable apartments - Block 2 Elevations – 16206 P175 Rev C
Affordable apartments - Block 3 Plans – 16206 P176 Rev C
Affordable apartments - Block 3 Elevations – 16206 P178 Rev B
Affordable apartments - Block 4 Plans – 16206 P179 Rev B
Affordable apartments - Block 4 Elevations – 16206 P180 Rev B
Affordable apartments - Block 5 Plans – 16206 P181 Rev D
Affordable apartments - Block 5 Elevations – 16206 P182 Rev C
Affordable apartments - Block 6 Plans – 16206 P183 Rev C
Affordable apartments - Block 6 Elevations – 16206 P184 Rev D
Affordable apartments - Block 7 Plans – 16206 P185 Rev D
Affordable apartments - Block 7 Elevations – 16206 P186 Rev C
Affordable apartments - Block 8 Plans – 16206 P187 Rev C
Affordable apartments - Block 8 Elevations – 16206 P188 Rev C

Affordable apartments - Block 9 Plans – 16206 P189 Rev B
Affordable apartments - Block 9 Elevations – 16206 P190 Rev B
Private apartments - Block 10 Plans (1 of 2) – 16206 P191 Rev B
Private apartments - Block 10 Plans (2 of 2) – 16206 P192 Rev B
Private apartments - Block 10 Elevations – 16206 P193 Rev B
Private apartments - Block 11 Plans – 16206 P194 Rev B
Private apartments - Block 11 Elevations – 16206 P195 Rev C
2 Bedroom F.O.G - Plans & Elevations (1 of 2) – 16206 P196
2 Bedroom F.O.G - Plans & Elevations (2 of 2) – 16206 P197 Rev A
2 Bedroom Gate House - Plans & Elevations – 16206 P198 Rev A
Ancillary Buildings (Garages & substation) – 16206 P199 Rev B

OSP drawings listed within the drawing issue sheet dated 5/09/2020 (CD132)
(all drawings in CD1, CD50-CD130, and CD133-137)

Materials Distribution Diagram - 16206 - SK55D
Landscape Strategy Plan – 6703.LSP.ASP5 Rev L
Proposed Access Arrangement - Drawing 16-T114 06 Rev F
Proposed Amendments to Church Road Northern Section (Junction with Deringwood Drive) - 16-T114 34.1
Proposed Amendments to Church Road Section Immediately Outside Site Area - Drawing 16-T114 34.2
Proposed Off Site Highway Improvements (1 of 4) - 14590-H-01 P1
Proposed Off Site Highway Improvements (2 of 4) - 14590-H-02 P1
Proposed Off Site Highway Improvements (3 of 4) - 14590-H-03 P2
Proposed Off Site Highway Improvements (4 of 4) - 14590-H-04 P2
Willington Street/Deringwood Drive Junction – Proposed Traffic Signals - 14195-H-01 P5
Spot Lane Junction Potential Adjustments - 14195-H-02 P2

Compliance

- 3) The development shall be carried out in accordance with the boundary treatments as shown on drawing nos. 16206 P101 Rev U and 16206/SK55D and shall be retained and maintained thereafter.
- 4) The development shall be carried out in accordance with the hard surfaces as shown on drawing no. 16206 P105 Rev A and maintained thereafter.
- 5) All planting, seeding and turfing specified in the approved landscape details shall be carried out either before or in the first planting season (October to February) following the occupation of the building(s) or the completion of the development to which phase they relate, whichever is the sooner; and any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

- 6) Excluding the area in the southeast corner of the site adjacent to ancient woodland, the areas of open space as shown on pages 58 and 59 of the Design & Access Statement shall be maintained as publicly accessible open space in perpetuity.
- 7) The approved details of the parking/turning areas for each building shall be completed before the commencement of the use of the land or buildings to which they relate and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on parking/turning areas for each building or in such a position as to preclude vehicular access to them.

Pre-Commencement

- 8) The development shall be carried out in accordance with the Construction Environment Management Plan (CEMP) approved under application 21/502372/SUB.
- 9) Unless approved under application 21/503538/SUB (which if approved the details shall be provided before any of the dwellings hereby permitted are first occupied and retained as such thereafter), before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the north west of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 10) The development shall not commence above slab level until the car park for St Nicholas Church approved under application 21/502372/SUB has been constructed and is available for use in accordance with the details approved. Once implemented the car park shall only be used in connection with use of the Church for parking purposes.
- 11) Unless approved under application 21/503538/SUB (which if approved the details shall be provided before any of the dwellings hereby permitted are first occupied and retained as such thereafter), before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows:
 - a) all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points;
 - b) measures to ensure that cyclists can gain cycle access to 'The Beams' and the Play area to the north west of the site from the cycle routes. Such design specification shall ensure that the cycle routes provided are no less than 3m wide.

The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.

- 12) The development shall be carried out in accordance with the Phasing Plan for the development approved under application 21/502372/SUB unless otherwise agreed in writing by the local planning authority.
- 13) The development shall be carried out in accordance with the ecological mitigation measures approved under application 21/502372/SUB.
- 14) The development shall be carried out in accordance with the detailed sustainable surface water drainage scheme approved under application 21/505011/SUB
- 15) The development shall be carried out in accordance with the sustainable surface water drainage infiltration details approved under application 21/505011/SUB.
- 16) The development shall be carried out in accordance with contaminated land details approved under application 21/502372/SUB. A Closure Report shall be submitted upon completion of the contamination/remediation works. The closure report shall include full verification details and include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean. Any changes to these components require the express consent of the local planning authority.

The development shall be undertaken in accordance with the approved scheme.

- 17) The development shall be carried out in accordance with the Written Scheme of Archaeological Investigation approved under application 21/502372/SUB. Before archaeological works cease, a post-excavation assessment report, full report and publication programme shall be agreed with the County Archaeologist and submitted to the local planning authority for approval in writing.
- 18) The development shall be carried out in accordance with the Arboricultural Method Statement (AMS) approved under application 21/502372/SUB.
- 19) The development shall be carried out in accordance with the slope stability report, recommendations, and sterilisation strip and details approved under application 21/503301/SUB.

Pre-Floor Slab Level

- 20) Unless approved under application 22/500170/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until specific details of the landscaping proposals, which shall follow the principles shown on the

Landscape Strategy Plan (drawing no. 6703 LSP ASP5 Rev L), have been submitted to and approved in writing by the local planning authority. The scheme shall be designed in accordance with the principles of the Council's landscape character guidance and include a planting specification, a programme of implementation and a 5 year management plan. The landscape scheme shall specifically address the need to provide the following:

- a) A landscape phasing plan for the site which shall include the planting along the west boundary within the first phase.
- b) Strengthening and replacement native hedge planting along the site frontage with Church Road.
- c) Structural native tree and shrub planting along the site frontage with Church Road.
- d) Retention of trees along the western boundary and new native tree and shrub planting.
- e) Retention of trees along the southern boundary and new native tree and shrub planting.
- f) Retention of trees along the boundaries with the property 'Squerryes Oast'
- g) Native woodland and shrub planting to create at least a 30m buffer from the Ancient Woodland in the south east corner
- h) Orchard planting to the south of St Nicholas Church.
- i) Native hedge planting within the development.
- j) LEAP and LAP details.
- k) All proposed boundary treatments for the site beyond those approved under condition No. 3.

Landscaping shall be implemented in accordance with the approved details and programme.

- 21) Unless approved under application 21/505211/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place in any phase until full details of the ecological enhancements outlined in the Ecological Appraisal and their delivery have been submitted to and approved in writing by the local planning authority for that phase. The development shall be carried out in accordance with the approved details and measures which shall include the following:
 - a) Wildflower grassland
 - b) Measures to allow hedgehogs to move through the development
 - c) Bat and bird boxes
 - d) Habitat piles.
- 22) Unless approved under application 21/505661/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place in any phase until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) for that phase have been submitted to and approved in writing by the local planning authority. The materials shall

follow the 'Materials Distribution Diagram' (16206/SK55D) and include the following unless otherwise agreed in writing by the local planning authority:

- a) Multi stock facing bricks
- b) Clay hanging tiles
- c) Clay roof tiles
- d) Slate roof tiles
- e) Ragstone on buildings
- f) Ragstone walling.

The development shall be constructed using the approved materials unless otherwise agreed in writing by the local planning authority.

- 23) Unless approved under application 21/505661/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place in any phase until written details and large-scale plans showing the following architectural detailing have been submitted to and approved in writing by the local planning authority for that phase:

- a) Soldier courses
- b) Bricked arches above windows
- c) Bullnose hanging tile detailing.
- d) Roof overhangs.

The development shall be constructed in accordance with the approved materials.

- 24) Unless approved under application 21/505661/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until a sample panel of the ragstone for the walling and buildings, including mortar mix details, has been submitted to and approved in writing by the local planning authority. Such details as approved shall be fully implemented on site.
- 25) Unless approved under application 21/505443/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until the specific air quality mitigation measures, which shall include the type and location of electric vehicle charging points (which equates to 1 EV charge point per dwelling with dedicated parking) and details of charging for properties without on-plot parking, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 26) Unless approved under application 22/500168/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until a "bat sensitive lighting scheme" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and these shall be maintained thereafter.

- 27) Unless approved under application 22/500298/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level for any phase shall take place until details of lighting for streets and houses have been submitted to and approved in writing by the local planning authority for that phase. The lighting provided shall be carried out in accordance with the approved scheme.
- 28) Unless approved under application 21/506368/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until a written statement of public art to be provided on site in the form of a Public Art Delivery Plan in line with the thresholds set within the Public Art Guidance has been submitted to and approved in writing by the local planning authority. This should include the selection and commissioning process, the artist's brief, the budget, possible form, materials and locations of public art, the timetable for provision, maintenance agreement and community engagement.

The development shall be carried out in accordance with the approved details.

- 29) No development above floor slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays shall be kept free of obstruction above a height of 1 metre.
- 30) The development shall not commence above floor slab level until the following off-site highways works have been provided in full:
 - a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the local planning authority;
 - b) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019'.

The following off-site highways works shall be provided no later than the occupation of 100 units or 31st December 2023, whichever is the sooner. The

development shall not be occupied beyond this point until these off-site highways works have been provided:

- c) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;
- 31) The development shall be carried out in accordance with the PV panels approved under application 21/504922/SUB and they shall be retained thereafter.

Pre-Occupation

- 32) The development shall not be occupied until the following off-site highways works have been provided in full:
- a) The proposed work as shown in drawing Nos 14590 H-01 P1, 14590 H-02 P1, 14590 H-03 P2, and 14590 H-04 P2;
 - b) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing with the local planning authority; and
 - c) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 Rev P2, or any alternative scheme agreed in writing with the local planning authority.
- 33) Unless approved under application 22/500169/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until a Detailed Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Detailed Travel Plan.
- 34) Unless approved under application 21/505211/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable unless the local planning authority gives written consent to any variation.
- 35) Unless approved under application 21/503538/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until details of the pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road and the timing of its delivery have been

submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 36) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the local planning authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed. No development shall be occupied until the approved scheme has been implemented.
- 37) If during construction/demolition works 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 recommence 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 construction works then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.
- 38) Unless approved under application 21/503538/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority.

The development shall not be occupied until the approved works have been carried out in full.

Case Officer: Richard Timms



Appeal Decisions

Inquiry Held on 23-27 November 2020 and 30 November 2020

Site visit made on 19 November 2020

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 7th January 2021

Appeal A - Ref: APP/U2235/W/20/3254134

Land West of Church Road, Otham, Kent ME15 8SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Bellway Homes Limited against Maidstone Borough Council.
 - The application Ref 19/501600/OUT, is dated 27 March 2019.
 - The development proposed is an outline planning application for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space. Access to be considered in detail and all other matters reserved for future consideration.
-

Appeal B - Ref: APP/U2235/W/20/3256952

Land West of Church Road, Otham, Kent ME15 8SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Bellway Homes Limited against Maidstone Borough Council.
 - The application Ref 19/506182/FULL, dated 6 December 2019, was refused by notice dated 15 July 2020.
 - The development proposed is residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.
-

Decisions

Appeal A

1. The appeal is allowed and outline planning permission is granted for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space. Access to be considered in detail and all other matters reserved for future consideration at Land West of Church Road, Otham, Kent ME15 8SB in accordance with the terms of the application, Ref 19/501600/OUT, dated 27 March 2019, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping at Land West of Church Road, Otham, Kent ME15 8SB in accordance with the terms of the application, Ref 19/506182/FULL dated 6 December 2019, subject to the conditions set out in the attached schedule.

Application for costs

3. At the Inquiry an application for costs was made by Bellway Homes Limited against Maidstone Borough Council in relation to both appeals. That application is the subject of a separate Decision.

Preliminary and procedural matters

4. The appeals relate to two applications on the same site with the same means of access. For ease of reference I have referred to the two cases as Appeals A and B in this decision letter as set out in the headers. Whilst I have dealt with each appeal on its individual merits there are many similarities in the planning issues that are set out below. I have considered the proposals together in this Decision Letter. Although there are two appeals, I use singular terms such as 'appellant' and 'appeal site' for ease of reference.
5. There is some discrepancy in the address of the appeal site from that contained within the relevant planning applications and that used by the Council. In the banner headings above I have used the address of the appeal site as that contained on the Council's Decision Notice in respect of Appeal B, dated 15 July 2020.
6. The application (Ref 19/501600/OUT) in Appeal A was submitted in outline with all matters, apart from the means of access onto Church Road, reserved for future determination. I have considered Appeal A on that basis. The submission documents included a Parameter Plan and Illustrative Masterplan which I have taken into account in the determination of this appeal.
7. At the Inquiry draft agreements under Section 106 of the Town and Country Planning Act (S106 Agreements) were provided in respect of both appeals. These were subsequently signed and dated 14 December 2020 and would take effect should planning permission be granted. The S106 Agreements pursuant to both appeals include obligations relating to affordable housing, provision of a car park for St Nicholas Church and financial contributions relating to primary education, cycleway improvements and monitoring of the Travel Plan.
8. A Community Infrastructure Levy (CIL) Compliance Statement was submitted at the Inquiry by the Council. I have had regard to the provisions of this in consideration of the S106 Agreements relative to both of these appeals. I shall return to these matters later in this decision.
9. The Kent Branch of the Campaign to Protect Rural England (CPRE), Maidstone Borough Council Labour Group, Downswood Parish Council and the Maidstone Cycle Campaign Forum were accorded Rule 6(6) party status and presented evidence in support of their objections to the proposals. These included matters in relation to the Council's reasons for refusal of planning permission in respect of the application relevant to Appeal B and the reasons that the Council would have refused the outline application in Appeal A. However, they also included a number of other matters that were not contested by the Council or Kent County Council (KCC) in its capacity as highway authority. In particular, Rule 6 Party concerns, amongst other things, related to the effect of the developments on heritage assets and a number of other matters including the effect on the character and appearance of the surrounding area, the living conditions of nearby residents, drainage, land stability, fear of crime and air quality.

10. The Inquiry was conducted on the basis of topic based round table sessions (RTS) involving discussions in relation to the effect on heritage assets and other matters raised by the Rule 6 Parties. Matters relating to the effect of the developments on highway safety, the free flow of traffic, planning issues and the planning balance were considered by the formal presentation of evidence.
11. Although the CPRE had submitted a proof of evidence in relation to the effect of the development proposals on heritage assets, the relevant witness was unable to attend the Inquiry. The CPRE Advocate confirmed that the Rule 6 Party was content for the evidence to be taken as read and discussed in the RTS without the witness being present. The RTS proceeded on that basis.

Background and Main Issues

12. Appeal A was submitted in respect of the non-determination of the outline planning application. The Council refused planning permission for the application relating to Appeal B and resolved that it was minded to refuse planning permission for Appeal A had it been in a position to determine the relevant planning application. The same two reasons for the refusal of planning permission were applicable to both applications and related to the impacts of the developments on traffic congestion on Willington Street and would worsen highway safety issues on Church Road.
13. There are no designated heritage assets within the boundary of the appeal site. However, there are a number of designated heritage assets located adjacent to it and within the immediate area. The Council did not identify the effects of the proposed developments on nearby heritage assets as a reason to refuse planning permission in respect of both appeals.
14. Rule 6 Parties and a number of other interested parties expressed concerns at the impact of the proposed developments on designated and non-designated heritage assets. I have therefore taken into account the requirements of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in respect of the special regard to the desirability of preserving a listed building or its setting, and the advice provided in Paragraph 193 of the National Planning Policy Framework (NPPF)
15. Having taken into account this background, the evidence before me and from what I heard at the Inquiry, the main issues are:
 - the effects of the proposed developments on the safe and efficient operation of the highway network in the vicinity of the appeal site; and,
 - the effects of the proposed developments on the special interest of nearby heritage assets.

Reasons

The appeal site and proposed developments

16. The appeal site is located to the south east of Maidstone. It comprises an agricultural field situated to the west of Church Road, to the east of Chapman Avenue. It is located on the south-eastern edge of Maidstone between substantial residential areas to the north, west and southwest, namely cul-de-sacs within the Downswood area to the north, Chapman Avenue to the west

and Woolley Road to the south. To the east are open agricultural fields with the village of Otham lying beyond.

17. The site is highest at its southern end with a gradual fall to the north. To the west, the site abuts the rear boundaries of properties on Chapman Avenue with the houses being positioned at a lower level than the appeal site.
18. To the north of the site is the Grade I listed St Nicholas Church, and Grade II Church House. Immediately to the south/southeast are a number of detached residential properties at The Rectory (Grade II listed) and Squerryes Oast.
19. A Public Right of Way passes through the northern part of the site (KM86) that provides connectivity between Church Road and the area of open space outside the northwest corner of the site between The Beams and Longham Copse. To the east, the site is bound by a mature hedgerow which runs along Church Road. To the southeast is an area of recreational amenity space, Ancient Woodland, and an area of green space locally known as 'Glebe Land'.
20. Appeal A relates to an outline planning application for up to 440 residential dwellings with all matters, other than access reserved for future consideration. The submitted 'Parameter Plan' shows a central area of open space linking to landscape buffers along the northern and eastern boundaries of the site. The plan shows vehicular access is proposed to the east of the site from Church Road via two priority access junctions which will link to a proposed spine road looping within the site.
21. Appeal B relates to an application for full planning permission for 421 houses. The same two access points off Church Road, as proposed in Appeal A, are also proposed. The proposed layout would broadly follow the form of development proposed in the Parameter Plan and would provide for a range of detached, semi-detached, and terraced houses with a number of apartment blocks with development extending over 2 and 3 storeys. Affordable housing is proposed at 30% which equates to 126 units.

Planning policy context

22. The development plan comprises the Maidstone Borough Local Plan adopted in October 2017 (the Local Plan). Policy SP3 identifies land to the south east of the Maidstone urban area, which includes the appeal site, as a strategic development location for housing growth with supporting infrastructure. It is defined as the South East Maidstone Strategic Development Location (SEMSDL). Amongst other things, the policy sets out that approximately 2,651 new dwellings will be delivered in this area on six allocated sites (policies H1(5) to H1(10)). Policy H1(8) relates to the appeal site.
23. Policy H1 of the Local Plan sets out the Council's general approach to the consideration of development proposals on allocated sites. It provides a number of criteria that development on all sites should adhere and includes, amongst other things, that an individual transport assessment for development proposals will be required to demonstrate how proposed mitigation measures address the cumulative impacts of all sites taken together.
24. The appeal site is allocated under Policy H1(8) for development of approximately 440 dwellings at an average density of 35 dwellings per hectare. This policy also sets out a number of criteria that development proposals should meet. These include, amongst other things, a need to retain an

- undeveloped section of land along the eastern edge of the site in order to protect the setting of St Nicholas Church and maintain clear views of the Church from Church Road; the Church Road frontage to be built at a lower density from the remainder of the site; the hedge line along the eastern boundary of the site with Church Road to be retained and strengthened where not required for access to the site and access to be taken from Church Road only.
25. The Council identified two reasons for the refusal of planning permission for the development proposed in Appeal B, and the same two reasons for contesting the development proposed in Appeal A. The first reason was that that the proposed developments would result in severe traffic congestion on Willington Street, contrary to Policy DM21 of the Local Plan. This policy requires that development proposals demonstrate that the impacts of trips generated to and from the development are accommodated, remedied or mitigated to prevent severe residual impacts, including where necessary an exploration of delivering mitigation measures ahead of the development being occupied.
 26. The second reason identified that the proposals would result in the worsening of safety issues on Church Road to the south of the site and that the mitigation proposed was not sufficient to overcome these safety concerns contrary to Policy DM1 of the Local Plan. This policy sets out the Council's approach to good design. Criterion ix of the policy requires development to safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access.
 27. The main parties agree that the Council can demonstrate a 5 year supply of land for housing.¹ This being the case, none of the relevant policies in the recently adopted development plan can be considered as being out-of-date. Paragraph 11 (d) of the NPPF is therefore not engaged.
 28. Policy SP18 of the Local Plan sets out the Council's general approach to the conservation and enhancement of the historic environment. In particular, it identifies that this will be achieved through the development management process by securing the sensitive management and design of development which impacts on heritage assets and their settings and ensuring relevant heritage considerations are a key aspect of site master plans prepared in support of development allocations identified in the Local Plan.
 29. Policy DM4 of the Local Plan relates to development affecting designated and non-designated heritage assets. Amongst other things, this policy states that the Council will apply the relevant tests and assessment factors specified in the NPPF when determining applications for development which would result in the loss of, or harm to, the significance of a heritage asset and/or its setting.
 30. Policy SP20 sets out the Council's requirements for the provision of affordable housing. Developments of 11 units and more are required to provide 30% of the units as affordable housing with a tenure split of 70% affordable rented housing and 30% intermediate affordable housing (shared ownership and/or intermediate rent).
 31. The village of Otham is in the process of producing a Neighbourhood Plan for the period 2020 to 2035. This emerging Neighbourhood Plan follows the Otham

¹ Agreed Statement of Common Ground – CD166

Parish Boundary and therefore includes the appeal site. Consultation on this Plan, pursuant to Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, was concluded during the Inquiry (27th November 2020). However, there is no evidence before me of the results of the consultation exercise or the extent to which any objections made are capable of resolution. Moreover, no date is available as to when this Plan may be subject to formal examination. Consequently, the emerging Neighbourhood Plan is currently not made and I have afforded the policies contained therein little weight in the determination of this appeal.

Effect on the efficient operation of the local highway network

32. The effect of development of the SEMSDL, including the appeal site, on the highway network was considered in the examination of the Local Plan. In particular, paragraph 173 of the Inspectors Report on the Examination of the Local Plan², dated 27 July 2017, states, *"In conclusion the Policy SP3 South East Maidstone Strategic Development Location will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective. However the concentration of development close to the town does allow alternative and more sustainable means of travel to be made available. That is less likely to be the case were the housing to be located away from the town in another part of the Borough where residents would still need access to employment and services in the town."*
33. The adopted Local Plan includes the same strategic highways and transportation improvements in each of the relevant policies applicable to the six allocated sites in policies H1(5) to H1(10) that are required to be met. In the case of Policy H1(8) these are outlined in criterion 13 to 17. They include bus prioritisation measures on the A274 Sutton Road together with bus infrastructure improvements; improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road; a package of measures to significantly relieve traffic congestion on Sutton Road and Willington Street; improvements to capacity at the A229/A274 Wheatsheaf junction and improvements to the frequency/quality of bus services on the Sutton Road corridor.
34. Planning permission for the H1(5) and H1(6) sites was granted in 2014 and each planning permission provided a unilateral planning obligation to provide the road capacity improvements identified in the relevant policies and measures to encourage sustainable travel modes. Planning permission was granted in 2018 for site H1(7) and site H1(10) and included similar obligations³. Following the introduction of the Council's Community Infrastructure Levy (CIL) any monies to strategic highway improvements would thereafter be via CIL, including those arising from the development of the appeal site. In respect of land at Bicknor Farm, site H1(9), the first of four CIL instalments was due on 25 September 2020⁴.
35. I have taken into account the concerns of Rule 6 and other interested parties that the identified improvements in Policies H1(5) to H1(10) have not yet been

² CPRE: Proof of Evidence – Otham Parish Council – Appendix 5

³ Paragraph 6.49 – CD169

⁴ ID12

- delivered. However, other than the contributions that would be delivered in respect of the appeal site, there are appropriate planning mechanisms in place to secure the funding identified by the Council to contribute to the highway and public transport improvements required to support the delivery of the SEMSDL as identified in the relevant policies H1(5) – H1(10) of the Local Plan. Whilst none of the identified improvements have yet commenced, the fact remains that the planning mechanisms to secure financial contributions have been made to address the cumulative impact on the highway network in respect of five of the six sites as clearly set out in the Local Plan.
36. The Deringwood Drive and Willington Street junction is not identified in the Local Plan as a junction requiring improvement to deliver the SEMSDL. Furthermore, I have no evidence to suggest that any issues with this junction were identified in the consideration of planning applications associated with the other five sites in the SEMSDL.
 37. The proposed signalised junction improvement scheme has been subject to an independent Stage 1 Road Safety Audit and the Council has raised no highway safety issues associated with the proposed scheme⁵. The Council's concern is that the signalisation scheme would introduce a new delay on Willington Street thereby causing severe congestion on this road.
 38. Following the submission of the Transport Assessments in respect of both appeals,⁶ a number of Transport Notes and Transport Technical Notes were submitted in response to issues raised by consultees.⁷ The Willington Street/Deringwood Drive junction currently takes the form of an uncontrolled priority junction. The submitted information identifies that, on completion of local committed developments, the junction will experience capacity issues, specifically on the Deringwood Drive arm, with drivers unable to exit this arm due to the increasingly heavy traffic volumes on Willington Street. This issue would be exacerbated by the implementation of the proposed development.
 39. The forecasts in the Appellant's Transport Assessment indicates that on Deringwood Drive between Church Road and Willington Street the proposed development would result in 112 two-way traffic movements in the AM peak and 109 two-way traffic movements in the PM peak⁸. This means that the proposed developments would add up to 25% of traffic to the section of Deringwood Drive west of its junction with Church Road in peak hours in 2029.
 40. The 'Iceni Transport Note' dated September 2019 shows that the Mean Maximum Queue (MMQ) of vehicles queuing on Deringwood Drive in the AM peak hour (08.00 - 09.00) without the proposed development would be 1.4 in the year 2018, 17.8 in 2019 and 57.9 in 2029. In 2029 with the proposed developments in this appeal in place the MMQ would be 144.2. The Rate of Flow to Capacity (RFC) of the Deringwood Drive arm of the junction in the AM peak was also considered. A RFC value of 1.0 is a point at which a junction becomes saturated. The RFCs were 0.60 in 2018, 1.38 in 2019, 2.34 in 2029 and 3.88 in 2029 with the proposed developments included.
 41. Therefore, irrespective of whether the appeal schemes are allowed, the submitted Transport Assessment suggests that the Willington

⁵ KCC Consultation Response 27 March 2020.

⁶ CD26 and CD145

⁷ CDs 30 – 34, CD37, CD152, CD153

⁸ Paragraph 5.38-5.39 and Appendix 2 of B Mr Wrights Proof of Evidence (PoE)

Street/Deringwood Drive junction cannot remain to operate within its existing arrangement over the next few years with the various committed development schemes currently completed or under construction in south-east Maidstone.

42. The proposed developments would involve the signalisation of this junction that would provide better opportunities for traffic queuing on Deringwood Drive to exit on to Willington Street and would introduce a Toucan Crossing to improve pedestrian/cyclist crossing of the road. In considering the effect of the signalisation of the junction on traffic flows, the appellant has provided modelling data both with the interaction between this junction and the two signalised junctions to the north (A20 Ashford Road/Willington Street and Willington Street/Madginford Road/Moat House) with account taken of the committed capacity enhancement scheme to the A20 Ashford Road/Willington Street junction. This modelling has considered the existing uncontrolled layout of the Willington Street/Deringwood Drive junction without the proposed development and a 'with mitigation' scenario with the proposed development, the transport mitigation measures identified in Policy H1(8) and signalling of the junction in place.
43. Whilst several iterations of the model have been produced, some of the latest outputs are provided in the Rebuttal Statement submitted by the appellant's highway witness. However, the Council consider that this latest modelling does not take into account the latest proposed designs for the A20 Ashford Road/Willington Street junction.
44. At the time the planning applications were considered by the Council the latest modelling at that time was based on that contained within the Transport Technical Note of February 2020. This shows that in 2029 with the development in place the proposed signalisation of the junction would result in AM Peak MMQs on Deringwood Drive of 38.2 with MMQs on Willington Street (South) Arm of 144.5 in the AM Peak and 122.1 in the PM Peak. The Council suggests that a 144 vehicle queue would extend beyond the School Lane/Willington Street junction.
45. The numerous iterations of the modelling data have considered the 2029 position both with and without the proposed development. The modelling contained within the evidence of Mr Lulham suggests that without the proposed development the AM peak MMQ on Willington Street (South) would be 244.9 and would be 192.3 with the proposed development and signalised junction⁹. In terms of Deringwood Drive this evidence suggest AM peak MMQs of 5.3 in 2029 without the development and 46.8 with.
46. The evidence in the appellant's Rebuttal Statement suggests that without the proposed development the AM peak MMQ on Willington Street (South) would be 86.5 and would be 127.4 with the proposed development and signalised junction. In terms of Deringwood Drive this evidence suggest AM peak MMQs of 5.0 in 2029 without the development and 16.4 with. This evidence also shows a MMQ of 67 vehicles that would queue back from the Madginford Road signals on Willington Street (South) in the AM peak which is long enough to extend beyond the Deringwood Drive junction.
47. Whichever modelling scenario is used, I find that the Council's assertion that whilst mitigating increased traffic congestion on Deringwood Drive, the

⁹ Tables 1 and 2 – Mr Lulham PoE

- proposed improvements to the Deringwood Drive and Willington Street junction will result in traffic congestion on Willington Street is not without basis. Furthermore, this would be also influenced by the frequency of operation of the Toucan Crossing, the speed which vehicles clear the junction, particularly HGV's, given the 'bowl' vertical alignment of the Willington Street arms and the extent to which the junction becomes blocked due to queuing traffic.
48. No agreement was reached between the main parties as which of the modelling results should be relied upon as being a realistic interpretation of vehicle queues and comprise a definitive position. The signalisation of the junction will undoubtedly interrupt traffic flows on Willington Street.
 49. I have no conclusive evidence to suggest that the proposed signalised junction would have an unacceptable impact on highway safety. The key issue is whether this increase in congestion can be considered 'severe' within the context of the advice provided in paragraph 109 of the NPPF to the extent that these appeals should be dismissed.
 50. There is no national definition of what may constitute a severe impact in the context of paragraph 109 of the NPPF. The appellant provided three Secretary of State decisions as examples of how the severe impact threshold has been considered¹⁰. No contrary evidence was provided by the Council as to how a severe impact should be considered or any quantification or threshold that should be applied in the context of these appeals to assess at what point, if any, an increase in congestion would amount to a severe residual impact on the road network.
 51. In these circumstances, I consider that the Secretary of State's agreement to the general approach taken in these decisions, in that the NPPF sets a high bar for the refusal of planning permission in respect of the traffic effects arising from development, is correct. I have therefore attached significant weight to the interpretation of 'severe' constituting a 'high bar' or 'high threshold' as contained within these decisions.
 52. The examination process which led to the adoption of the Local Plan involved the provision and consideration of evidence, including the Council's own commissioned modelling, relating to the highways impacts and mitigation required to support the allocation of the SEMSDL sites. In addition, the Council was provided with the Inspectors Report that clearly identifies that the "SEMSDL will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective".
 53. There was therefore a degree of acceptance by the Council in the adoption of the Local Plan that these sites would have some impact on congestion. To some extent this provided the justification for the need for the strategic highways and transportation improvements identified in each of the relevant policies applicable to the six allocated sites. There are mechanisms in place to secure the necessary funding for these improvements.
 54. I recognise that drivers may seek alternative routes to avoid congested roads and therefore increase traffic on other roads. However, I have no substantive

¹⁰ ID7

evidence to suggest that there has been a fundamental change in the traffic data or highway conditions in the Borough since the Local Plan was adopted only three years ago when the traffic implications of the SEMSDL for the Plan Period to 2031 were comprehensively assessed. Therefore, to some extent, the implications of the traffic likely to be generated by the development of the appeal site on localised congestion was known to the Council at the time the Local Plan was adopted.

55. Furthermore, the Planning Officer's Report to Planning Committee on 28 May 2020¹¹ identifies that in considering the wider/strategic junctions, the appellant's evidence provides the likely additional impact of the development but relies upon the cumulative assessments of transport impacts carried out to support the planning applications for the development on allocated sites H1(7) and H1(10) and included the likely traffic arising from the appeal site. These assessments concluded that the cumulative traffic impact upon the local network (including the appeal site) would not be severe subject to the improvements outlined in the relevant policies to junctions and public transport. This suggests that in respect of the planning applications relevant to the H1(7) and H1(10) sites the Council had accepted the conclusion that there would not be a severe cumulative effect on the local network as a consequence of developing these SEMSDL sites, including the appeal site.
56. Taking into account all of the modelling scenarios it is clear that Willington Street will likely experience an increase in MMQs by 2029 as a consequence of development already permitted and irrespective of whether these appeals are allowed. This would correspondingly make right turn movements from the existing junction of Deringwood Drive increasingly more difficult without intervention. In considering the additional traffic arising from the appeal schemes, the appellant has understandably sought to address this matter to provide a mechanism to access Willington Street from Deringwood Drive. Equally understandable is that in doing so there would be some impact on MMQs on Willington Street as a consequence of signals introducing a break and delay in traffic flows along Willington Street. In my view, this is an entirely understandable consequence of developing the allocated site in accordance with the requirements of Policy H1(8). I consider that the appeal proposals provide a balanced approach in enabling traffic arising from the proposed development to access Willington Street from Deringwood Drive and hence the strategic highway network beyond.
57. There is no doubt in my mind that the appeal proposals will contribute to the congestion already experienced on Willington Street to a degree. Whilst this would undoubtedly cause driver inconvenience, I have no substantive evidence to suggest that this would cause a highway safety problem.
58. Taking into account the above factors and the context of paragraph 109 of the NPPF, I do not consider that the potential increase in MMQs and congestion on Willington Street as a consequence of the appeal proposals can be considered to constitute a severe residual cumulative impact on the road network. Therefore, there would be no conflict with Policy DM21 of the Local Plan. Furthermore, I do not consider that it would constitute a severe residual impact in the context of paragraph 109 of the NPPF.

¹¹ CD168 & 169 Planning Committee Report - 28 May 2020

Effects on highway safety

59. The appeal proposals provide for two vehicular access points onto Church Road which take the form of priority T-junctions that serve the 6m wide development spine road and incorporate 9m corner radii and 2m wide footways on each side. In this regard, the proposals accord with criterion 8 of Policy H1(8) of the Local Plan, which requires that 'access will be taken from Church Road only'. Visibility sightlines of 2.4m x 45m are proposed at both access junctions on the basis that the 30mph speed restriction will be extended southwards along Church Road. Swept path analysis demonstrates that the turning manoeuvres of refuse vehicles, buses and fire tenders can be accommodated at the junctions.
60. The Council and Kent County Council (KCC) in its capacity as Highway Authority have raised no objections to the design of the proposed junctions off Church Road to serve the developments. The Council's concerns, as articulated in the reasons for refusal, relate to the worsening of safety issues on Church Road to the south of the site.
61. Whilst Rule 6 parties provided anecdotal evidence of 'near misses' the fact remains that since 2013 no Personal Injury Accidents (PIAs) were recorded on Church Road within close proximity to the proposed site access. However, two PIAs were recorded elsewhere on Church Road, one causing slight injury in 2015 and one causing a serious injury in 2018¹². The serious injury accident occurred at the junction of Church Road with Gore Court Road and White Horse Lane whereby a vehicle swerved to avoid an animal causing a loss of control and a collision with a tree, which fell on top of the vehicle itself.
62. There is some discrepancy between KCC and the appellant as to the nature and location of the slight injury accident. The appellant identifies this as involving a driver exiting Church Road onto Deringwood Drive pulling out into the path of an oncoming vehicle. The Council refer to a cycle skidding on ice in the vicinity of Ellenswood Close. Irrespective, these therefore occurred towards each end of Church Road and were not located near to the proposed access points.
63. I accept that there may have been other unrecorded accidents on Church Road for which no data is available. However, the data on PIAs is commonly used as one source of information to assess highway safety matters relevant to a stretch of road. The source of the PIA data for Church Road is KCC and the PIAs identified appear to be driver and weather related that do not conclusively demonstrate a safety issue with the road itself. The data does not evidentially support any view that Church Road already has a poor safety record.
64. Church Road currently varies in width along its length between approximately 4.3m to 5.0m, has limited forward visibility in parts, no lighting and no pedestrian facilities. There are isolated areas where the road width is below these dimensions. It is currently subject to a 60mph speed limit along most of its length. The appeal proposals would involve the widening of the road to achieve a carriageway width of approximately 5.5m to the north of the southern access point. A new section of footway would extend from the northern site access, along the current highway verge outside of St Nicholas Church, to connect to the existing footway to the north.

¹² Table 3.1 -Transport Assessment (Iceni, December 2019) – CD145

65. The ability to widen Church Lane to the south of the proposed southern access is constrained by the extent of land in the control of the highway authority and the appellant and the proximity of ancient woodland. The appeals proposals provide for some widening to achieve a carriageway width of 4.8m along the majority of Church Road to the junction with White Horse Lane, although there would be localised areas where the carriageway width would remain at less than 4.8m. In addition, 'build outs' with a give way feature would also be provided on a bend in the vicinity of 'Little Squerryes' to the south of the site where there is currently limited forward visibility. As part of this scheme it is proposed that the existing 30mph speed restriction is extended from its current location outside the Church, to the south along the site frontage, to include the area containing the build outs.
66. The ecological and ownership constraints that affect the ability to widen Church Road, other than as proposed in these appeals, have not change since the adoption of the Local Plan which defined access onto this road only. Policy H1(8) is not prescriptive regarding the widening of the whole length of Church Road. Criterion 12 only requires road widening off Gore Court Road between the new road required under policy H1(6) and White Horse Lane. That widening will be delivered in connection with the permission being developed out on that site. In my view, taking into account ownership constraints and the position of the ancient woodland, the appellant's proposals to widen the road are the maximum of what can reasonably be achieved within the constraints identified.
67. KCC refer to the Kent County Council Design Guide (2005) which, amongst other things, sets out recommended carriageway widths for roads serving a development. Although its primary purpose is to inform the design of new roads, KCC use this as a reference when assessing the suitability of existing roads.¹³ The Council has not adopted the Guide as a Supplementary Planning Document. It has, however, approved the document for use as approved planning guidance¹⁴ and as such it can be afforded moderate weight.
68. In applying the principles of the Design Guide, KCC suggest that the whole length of Church Lane should have a minimum carriageway width of 5.5m¹⁵. KCC refer to Figure 7.1 of the Manual for Streets which indicates that a carriageway width of 4.8m would enable a Heavy Goods Vehicle (HGV) to pass a car and a width of 5.5m enables two opposing HGV's to pass one another. As there are parts of Church Road that are not proposed to be widened to those widths, KCC consider that Church Road would not conform to national or local standards. In particular, the unmodified parts of Church Road where the carriageway width would remain below 4.8m would not enable a car to pass an opposing HGV.
69. The submitted Transport Assessment identifies that traffic flows arising from the development proposals would add 84 two-way vehicle movements to Church Road to the south of the site during the weekday AM peak hour (08.00 – 09.00) and 81 two-way vehicle movements during the PM peak hour (17.00 – 18.00). This equates to just over one additional vehicle movement per minute at these times. Automatic Traffic Count Data collected during the week commencing 9 February 2020 identified that a maximum of 171 two-way HGV movements were recorded on a weekday on Church Road. The maximum

¹³ Paragraph 4.50 – Mr Wrights PoE

¹⁴ ID9

¹⁵ Appendix A – Mr Wrights PoE – KCC consultation response 13 February 2020

hourly HGV volumes were 25 northbound and 15 southbound¹⁶, although I have no evidence as to how these relate to peak hours.

70. It would not be possible to widen the full length of Church Road to 5.5m without encroaching into the ancient woodland and acquiring third party land. Whilst I recognise the desirability of KCC to achieve this width, in this case it is neither reasonable nor achievable in the appeals before me. Furthermore, there is no evidence before me to suggest that such widening was a prerequisite to the allocation of the site in the Local Plan. Strict adherence to KCC's requirements in this regard would effectively render the development of this carefully considered site allocation in the Local Plan as being undeliverable.
71. In my view, the appellant has provided optimum measures to widen Church Road, extend the 30mph speed limit and improve visibility within the parameters constrained by ownership and the proximity of ancient woodland. I do not consider that the additional traffic movements at peak hours of just over one per minute represents a significant increase in movements on Church Road.
72. I recognise that there is a possibility of an increased frequency of car and HGV conflict that would inhibit these vehicles to pass each other on the remaining sections of the road where widening is not possible. However, currently the potential for such conflict already occurs over a significant length of the road. As a consequence of the proposed works, the length of Church Road where such conflict could occur would be significantly reduced.
73. Taking into account the above factors, I do not consider that the proposed developments would demonstrably cause worsening safety issues on Church Road to the south of the site to the extent that both these appeals should be dismissed. In light of this conclusion, I do not consider that there would be conflict with Policy DM1 of the Local Plan.

Highway issues - Conclusion

74. I have found that there is no demonstrable evidence before me to suggest that the development proposals would give rise to a material worsening of highway safety conditions on Church Road. They would contribute to an increase in congestion on Willington Street. I accept that this would cause an inconvenience for drivers, but I have no evidence to suggest that this would cause any highway safety implications. In the context of paragraph 109 of the NPPF, I do not consider that that this would amount to a severe impact.
75. I have also taken into account the other proposed highway mitigation measures. These include the proposed improvements to the A20/Spot Lane Junction, the Deringwood Drive/Church Lane Junction and accessibility improvements that are considered elsewhere in this decision. These mitigation measures provide benefits that will be experienced by all users of the highway and the cycle/footpath network in the locality and not just those residing on the appeal site. Consequently, these benefits carry modest weight.
76. Therefore, taking all of the above factors into account, I do not consider that the proposed developments would have a material severe detrimental effect on the safe and efficient operation of the highway network in the vicinity of the

¹⁶ Paragraph 2.2.12 Mr Lulham PoE

appeal site. As such there would be no conflict with the relevant policies contained within the Local Plan.

Effects on heritage assets

77. There are no designated heritage assets within the boundary of the appeal site but there are five statutorily listed buildings located adjacent to it and other designated heritage assets in the vicinity. In particular, these comprise St Nicholas's Church (Grade I listed) and two Grade II listed monuments within the graveyard, and 'Church House' (Grade II listed) immediately to the north of the site. There is also 'The Rectory' (Grade II listed). Further afield, the Otham Conservation Area is located to the southeast of the site and separated from it by intervening agricultural land. Gore Court (Grade II listed) and its extensive grounds are also located to the south-east of the site.
78. In my view, there would be inevitably some impact on the setting of nearby heritage assets as a consequence of development on the site. However, the site has been considered suitable for a development of up to 440 houses by the allocation in the Local Plan and, as such, the principle that there would be some impact on the setting of heritage assets has been established as a consequence of the site allocation.
79. Although there is no evidence before me on the extent to which heritage matters in relation to the site were considered in the examination in public of the Local Plan, it is clear that the Inspector, in considering the allocation of the site, was mindful of the impact of development on the setting of St Nicholas Church. In particular, paragraph 172 of the Inspectors Report on the Examination of the Local Plan, dated 27 July 2017, identified Main Modification 19 (MM19) to Policy H1(8) to specifically require an undeveloped section of land to be retained along the eastern edge of the site in order to protect the setting of the Church and maintain clear views of it from Church Road¹⁷. However, no other impact on heritage assets in the proximity of the site was identified in the Inspectors Report in respect of the development of the site.
80. The adopted Policy H1(8) considers the impact of development on the setting of the Church itself. In addition to requiring an undeveloped section of land to be retained along the eastern edge of the site, which is set out in criterion 3 of the policy, criterion 4 requires development on the Church Road frontage to be built at a lower density from the remainder of the site, to maintain and reflect the existing open character of the arable fields on the eastern side of Church Road and to provide an open setting to St Nicholas Church. Criterion 6 requires the retention of non-arable land to the north and east of St Nicholas Church, to protect its setting.
81. In considering the impact of the development proposals on St Nicholas Church, these would result in the development of a plot of rural open land adjacent to the Church that would inevitably alter what remains of its wider historical setting. The close proximity of the northern access road to the Church will also form part of that change in setting.
82. The visual effects of the development proposals will be most obvious in views across the appeal site and from the east where the new buildings will be visible above the hedgerow along Church Road. However, Policy H1(8) is prescriptive

¹⁷ CPRE: Proof of Evidence – Otham Parish Council – Appendix 5

in identifying how development proposals should protect the setting of the Church.

83. In respect of Appeal A, the submitted Parameter Plan shows an undeveloped area of land along the east edge of the site to maintain clear views of St Nicholas Church from Church Road in line with criterion 3 of Policy H1(8). Further open space is also shown to the south and west of the Church to limit the impact upon the setting of the Church. Land to the north of the Church is shown as open space in line with criterion 6. Adherence to a form of development that is consistent with the provisions of the Parameter Plan can be secured by the imposition of a suitable planning condition were I minded to allow this appeal. Ensuring that development on the Church Road frontage would be built at a lower density from the remainder of the site can be secured through subsequent reserved matters submissions.
84. In respect of Appeal B, the submitted plans show that building would be set back just over 35m from the east edge of the site to maintain clear views of St Nicholas Church from Church Road in line with criterion 3. Open space is proposed to the south and southeast of the Church to provide undeveloped areas to limit the impact upon the setting of the Church. Land to the north and west of the Church would be maintained as undeveloped in line with criterion 6. The density of development along the Church Road frontage would be generally lower than the remainder of the site and would therefore be consistent with criterion 4.
85. The setting of the Church will undoubtedly change. However, the evidence before me suggests that the proposed change would accord with the requirements of Policy H1(8) in respect of how development should protect the setting of the Church. The proposed layout in respect of both appeals provides undeveloped areas to the north, west, and south and maintains clear views of the Church from Church Road.
86. Overall, taking the above factors into account, I do not consider that the degree of proposed change would amount to a total loss of significance of the heritage value of the Church. However, there would be less than substantial harm to the significance of this heritage asset.
87. With regard to the two Grade II listed monuments within the graveyard I agree with the findings of the submitted Heritage Assessment¹⁸ and the evidence of Liz Vinson that the heritage significance of these listed structures derives from their visual, spatial and historical relationship with the Church and other graves and funerary monuments within the graveyard. This relationship is experienced within a limited area and localised setting that is contained within, and dependent on, their relationship with the Church. This relationship will remain unaffected by the development proposals. Consequently, I do not consider that the development proposals would cause harm to the setting of these monuments.
88. With regard to Church House, I also agree with the Heritage Assessment in that the external heritage significance of Church House is best experienced and appreciated from within its own grounds, which are separated from the adjacent churchyard by a tall hedged and tree-lined boundary, and from the appeal site by a tall wooden fence. This building does not have a visual

¹⁸ Paragraph 4.7 – Heritage Assessment (March 2019) - CD22

influence over its wider surroundings in the same way as the Church. However, the proposed developments would erode some of the rural context in which it is experienced and affect some incidental views.

89. The Parameter Plan in respect of Appeal A, and the submitted Plans in respect of Appeal B, maintain an undeveloped area of land to the west and north of Church House and limit the position of new housing further west and south from it. These factors would reduce the visual effect of new development on the visual experience of the listed building. Taking these factors into account, I consider that there would be less than substantial harm to the significance of this heritage asset.
90. The Rectory is set back from Church Road and is partially secluded from the highway by a dense treeline. The Council indicate that it is located approximately 50m to the south of the site boundary. Views of the Rectory from the appeal site are filtered by an adjacent modern house, a tree-lined track leading from Church Road to Squerryes Oast and by Squerryes Oast itself. The appeal site currently provides a rural backdrop to the Church Road when viewing it from distance or obliquely along Church Road. In other views the setting of the Rectory is fairly localised and self-contained.
91. However, the historical link to the Church is one aspect of its setting. The proposed provision of an undeveloped area of land along the east edge of the site would maintain clear views of St Nicholas Church from Church Road, in line with criterion 3 of Policy H1(8). Consequently, I consider that the historical connection will remain. Whilst there would be change to the wider surroundings of the Rectory, the most important elements of its setting, namely the historical character of its recessed roadside frontage and the visual link it has with the Church, would be preserved. For these reasons, I do not consider that the development of the site would cause harm to the setting of this listed building.
92. Squerryes Oast is located to the west of the Rectory and comprises two converted oast houses. They are not recognised formally as heritage assets but I agree with the Heritage Assessment in that they can be considered to be of heritage interest as they represent a distinctive and well-preserved survival of a beer brewing industry. The setting is enclosed within a self-contained plot of land provided with almost total seclusion by dense tree cover along all of its boundaries. In my view, the oast houses can only be completely experienced and appreciated from within their own immediate surroundings, with only limited views available from the application site and none from Church Road.
93. The proposed developments will alter part of the wider rural setting of Squerryes Oast but not its immediate confined setting. Consequently, I do not consider that the proposals will lessen the appreciation of its remaining heritage interest.
94. Gore Court is a Grade II listed building located at the centre of an extensive private park enclosed by woodland. It is located to the south east of the site and situated on elevated ground between Church Road and the village of Otham. I agree with the Heritage Assessment that the intrinsic heritage significance of the house can only be experienced from within the estate, which effectively forms its setting. Only the woodland forming the northern boundary of the estate is visible from the appeal site.

95. The appeal proposals would result in residential development of farm land formerly attached to the Gore Court estate. However, given the intervening distance from the appeal site, the extensive surrounding woodland and its location in the centre of parkland, I consider that the setting of the listed building will remain unchanged by the proposals.
96. The Otham Conservation Area is separated from the appeal site by intervening agricultural land and hedgerows on Church Lane. The Council indicates that the distance from the edge of the Conservation Area to the appeal site is approximately 770m. The appeal site is visible from the western periphery of the Conservation Area and its appearance will change as a consequence of the development proposals. However, views of the appeal site are relatively distant beyond a large open field and the hedge-lines along Church Road. Given the intervening distance and the context of these views, I do not consider that the development proposals would be consequential to the heritage value of the Conservation Area which was designated primarily for its combination of built form, pattern of development and rural setting. Therefore, I consider that no harm would be caused to the setting of the Conservation Area.
97. The submitted Heritage Assessment also considered the effect of the proposed developments on the setting of the Mote Park Registered Park and Gardens. The existing intervening housing, the road layout and the surrounding topography serve to screen Mote Park from the application site and vice versa. As such, Mote Park and the application site do not share a common setting. Consequently, I do not consider that the appeal proposals would cause any harm to the setting of Mote Park.
98. In arriving at my above views regarding the harm to the setting of heritage assets, I have carefully considered the evidence provided in the Heritage Statement produced by Janice Gooch Consultancy (HS-JCG) on behalf of the CPRE. This Heritage Statement acknowledges that the site could be developed but that the proposed scheme is considered to cause substantial harm to the setting of the Church and its relationship with the Rectory and Church House¹⁹. In particular, it considers that there has been limited consideration of the group value of these listed buildings and their setting. Although the HS-JCG refers to the 'scheme' I interpret this to mean the development proposals pursuant to both appeals.
99. The HS-JCG considers that the proposed buffer zones are insufficient to provide protection of the loss of setting or allow for the retention of the visual link between the ecclesiastical buildings and therefore the scheme is considered to cause substantial harm to the setting of listed buildings. However, for the reasons explained above, I do not find this to be the case. In my view, both appeal proposals would be consistent with the relevant criteria of Policy H1(8) in maintaining appropriate buffers around heritage assets and maintaining the visual link between the Church and the Rectory. I have found that there would be less than substantial harm to the setting of the Church and Church House but I do not agree with the conclusions of the HS-JCG that the extent of the harm would amount to substantial.

¹⁹ Paragraph 6.5 Heritage Statement – Janice Gooch Heritage Consultancy (27 October 2020) – CPRE 8

100. I have also taken into account the views of CPRE, and the appeal decision provided, in respect of development on Land at Church Hill, High Halden²⁰ (High Halden) and whether this is determinative in considering Church Road as a non-designated heritage asset in the appeals before me. It is quite clear in that case that Church Hill, located within a Conservation Area, was considered by the Council to be a non-designated heritage asset (NDHA)²¹, although I have no other evidence to explain how this was designated and published as such.
101. In the case of the appeals before me I have no evidence to suggest that the Council has determined Church Road as a NDHA. The circumstances in these appeals are very different to that in the High Halden case in that Church Road does not lie within a Conservation Area, is not identified as a NDHA by the Council or any other statutory body and is specifically identified in the Local Plan to be used for access to serve an allocated site. I therefore attach little weight to the High Halden appeal decision.
102. Historic England accept the principle of development at the site and accept that it is unlikely that the overall harm can be reduced given other constraints on the site but that the proposal is capable of meeting NPPF requirements to minimise and thus also justify harm. This position was on the basis that a dedicated car park was to be provided within the appeal site to serve the Church. Historic England considers that without a dedicated church car park in the application there is less heritage benefit which might outweigh the harm arising from the proposed developments.
103. Notwithstanding the fact that the car park was removed from the plans that were considered by the Council, the proposals in the appeals before me both provide for a dedicated car park to serve the Church. On this basis, I have no other evidence to suggest that Historic England have objections to the appeal proposals.
104. The proposed car park would have a functional link with the Church. In my view, this would provide a small heritage benefit to assist in maintaining appropriate access to the Church for its use as a community resource. The proposed car park would be sited on land to the south of Church House, currently visually separated from Church House by a close boarded timber fence, and within an area which is proposed to receive surrounding landscaping as shown on the plans relevant to both appeals. This would enable it to be integrated into the overall landscaping scheme for the site that could be secured by an appropriate condition were I minded to approve these appeals. I do not consider that the proposed car park would have any material bearing on the appreciation of the heritage values of Church House or St Nicholas Church.
105. In consultation on the planning application relevant to Appeal A the Council's Conservation Officer was "*satisfied that the outline application scheme seeks to limit the harm on the setting of the listed buildings, in particular the Church, the Church House and the Rectory*". In addition, it was also stated that the proposals "*will only have a minimal effect on the setting of the Conservation Area*".

²⁰ ID8 - Appeal Decision APP/E2205/W/19/3227775

²¹ Paragraph 17 - Appeal Decision APP/E2205/W/19/3227775

106. In respect of the application relating to Appeal B, the Council's Conservation Officer identified that the site has been laid out with regard to the parameters in Local Plan H1(8). In addition, the consultation response also identified that *"the development would result in harm to the setting and significance of the Church due to the erosion of its historic rural outlook. There would also be harm to the setting of Church House for the same reasons but to a slightly lesser degree as the building is not a prominent landmark. I consider that the harm to the Church and Church House would be less than substantial and that the above measures would assist in mitigating the adverse heritage impacts of the scheme. I do not consider there would be harm to The Rectory or Otham Conservation Area as their settings would not be directly affected"*.
107. Overall, I consider that the harm to the setting of the heritage assets identified above would be less than substantial. In arriving at this view, I have also taken into account the advice contained within the Planning Practice Guidance (PPG) which advises that substantial harm is 'in general terms, a high test'. In my view, the characterisation of this by the appellant's heritage witness as being 'at the lower end of less than substantial harm' is reasonable. Furthermore, I have no other reasons to disagree with the views of Historic England or the Council's Conservation Officer in relation to the appeals proposals.
108. In arriving at this conclusion, I have had full regard to the desirability of preserving the setting of heritage assets and the need to give due weight to any harm in that respect. In particular, I have taken into account the provisions of paragraphs 193, 194 and 196 of the NPPF, which are reflected in Policy DM4 of the Local Plan. Whilst great weight is to be given to the conservation of heritage assets, less than substantial harm is to be weighed against any public benefits of the proposal.
109. In my view, the Parameter Plan, Illustrative Masterplan and proposed layout demonstrate that the proposed development has carefully considered how the impact upon heritage assets would be minimised to an acceptable degree bearing in mind the site is allocated for housing. However, in the case of both these appeals I have found less than substantial harm to the setting of the Church and Church House would be caused.
110. The allocation of 440 houses at the site would inevitably result in some harm to the setting of the two listed buildings to the north. Such impacts upon the setting of these listed buildings were clearly accepted when the Local Plan Inspector agreed that the allocation was acceptable for 440 houses, subject to criterion 3, 4, and 6 of Policy H1(8).
111. I have also found that both proposals would be consistent with the relevant criteria of Policy H1(8) in respect of measures required to be demonstrated in development proposals to protect the setting of St Nicolas Church, and in turn Church House, and maintain an undeveloped visual link to the Rectory along the eastern boundary of the site. I have also taken into account the public benefits of providing up to 440 houses in the case of Appeal A and 421 houses in the case of Appeal B. These include affordable housing to meet housing needs on an allocated site. In addition, there would be social and economic benefits associated with the construction and occupation of the dwellings identified elsewhere in this decision.
112. Whilst having special regard to the preservation of the setting of the Church and Church House, I conclude that the benefits identified above and elsewhere

in this decision outweigh the less than substantial harm that would be caused to the setting of these heritage assets and provide a clear and convincing justification in support of development of the site. Consequently, the proposed developments would not be in conflict with the relevant provisions of Policies H1(8), SP18 and DM4, nor with the relevant provisions of the NPPF.

Other Matters raised by Rule 6 Parties and Interested Parties

Character and appearance

113. The impact of the development of the site on the character and appearance of the surrounding area was considered at the Local Plan allocation stage in the Council's Landscape Capacity Study Site Assessment (2015)²² which formed part of the local plan evidence base. This confirms the visual sensitivity of the site to be moderate, relates reasonably well to existing development to the north, south and west and has the capacity to accommodate housing.
114. The Council's acceptance that there would be a change in the character and appearance of the appeal site was reflected in its allocation in the Local Plan. No objections have been raised by the Council in respect of the appeal proposals before me regarding the effect on the character and appearance of the surrounding area.
115. I have carefully considered the submitted Landscape and Visual Impact Assessment²³ (LVIA) which concludes that views of the proposals will be highly localised as a result of the gently sloping topography, established vegetation cover and intervening built form associated with the immediate setting of the site. Where localised views are available, the LVIA identifies that the proposals will integrate into the surrounding landscape when considering the existing built form, urbanising components and adjacent road corridors. Furthermore, it identifies that as the landscape features proposed within the landscape buffer mature, the proposed built elements will be softened, and the scheme will become an integrated part of the view. I have also taken into account the proposed layout of development which has been arranged to allow views of the Church from along Church Road within the proposed landscape buffer, and from within the site (diagonally from the centre towards the Church).
116. I recognise that there will be a change to the character and appearance of the surrounding area and to localised views. However, I am not persuaded that the magnitude and extent of this change would be any different from that identified in the LVIA. In this regard, I have no reasons to disagree with the conclusions of the LVIA.
117. Concerns were expressed in the Inquiry that the proposed access arrangements would give rise to the loss of more hedgerow on the Church Row frontage than was envisaged by criterion 5 of Policy H1(8). However, this part of the policy is not prescriptive of the extent of hedgerow to be retained. Whilst there would be some loss of this hedgerow there would also be some landscape strengthening and improvement to the remaining parts. I do not consider that the appeal proposals would conflict with the provisions of this part of the policy.
118. Taking into account the findings of the Council's Landscape Capacity Study Site Assessment (2015) and the findings of the LVIA, I do not consider that the

²² Appendix MW6 – Mr Woodhead PoE

²³ CD23

degree of change would be of such magnitude to cause material harm to the character and appearance of the surrounding area of an extent to warrant the dismissal of this appeal on those grounds. Notwithstanding the weight to be attached to the emerging Otham Neighbourhood Plan, I have taken into account the landscape protection policies of that plan but these do not lead me to any different conclusion on my findings identified above.

Air Quality

119. Concerns were expressed that the submitted Air Quality Assessments²⁴ (AQAs) lack consideration of any mitigation measures and lack rigour in their assessment of the impact, particularly at the junction of Willington Street and Deringwood Drive.
120. The appeal site is not located in an Air Quality Management Area (AQMA). The AQAs have been prepared in accordance with relevant Defra and best practice guidance. These conclude that the proposed developments would not have any significant impact on local air quality and no objections were made by the Council's Environmental Health Team in response to the consultations on the planning applications subject to mitigation measures which include provision for electric vehicle charging points. I have no other contrary evidence to suggest that the modelling methodology used in the AQAs to determine the impact of the proposed developments on air quality may be incorrect.
121. Predictions of 'Air Quality Standard' (AQS) concentrations in 2029 for a number of key pollutants shows these to be below the annual mean AQS in the local area. The Council has not identified the junction of Deringwood Drive and Willington Street as an area of concern in the annual review of the Local Air Quality Management Framework.
122. Whilst I recognise that the AQAs did not specifically assess this junction, they did assess the impacts at a number of worst-case sensitive receptor locations where the magnitude of change would be greatest and near major A roads where existing air quality is less good with a conservative assumption that there would be no improvement in the vehicle fleet beyond 2025.
123. Despite not modelling the junction, in the absence of any technical objection from the Council I have no reasons to suggest that the AQAs lack rigour in their assessment methodology. I have also considered the additional evidence provided by the appellant in this regard²⁵ and I have no reason to disagree with the findings that even if the junction was able to be modelled and found to have a slight/moderate impact this would not change the overall conclusion that the developments would have an overall negligible impact on air quality. Consequently, on the basis of the evidence provided, I am not persuaded that the proposed developments would have a material detrimental effect on air quality.
124. In arriving at the above view, I have taken into account the appeal decisions referred to by CPRE at London Road, Newington, Kent²⁶. However, the issues in relation to air quality in those cases are very different to those in the appeals before me. In particular, an AQMA was declared along a section of London Road in 2009 because the annual mean concentrations of the nitrogen dioxide

²⁴ CD17 and CD137

²⁵ Appendix MW2 – Air Quality Statement – Mr Woodhead PoE

²⁶ ID8

(NO₂) objective was exceeded. Modelling of “without development” and “with development” scenarios showed that for both appeal schemes there would be “substantial adverse” effects at three receptor sites in Newington. There were also “moderate adverse” and “slight adverse” effects at between three and five other receptor sites in each of these scenarios. In each case the limit value for annual mean NO₂ concentrations would be exceeded at five receptor sites, in some cases by a considerable amount. This is very different to the appeals before me where the modelling predicts that the highest concentration of NO₂ in 2029 to be 23.3% below the annual mean AQS. I have therefore attached little weight to these appeal decisions.

Flood risk and ground water

125. No objections have been received from statutory consultees regarding the submitted Flood Risk and Sustainable Drainage Assessment in respect of both appeals.²⁷ However, I have considered the concerns expressed by CPRE and the additional information provided by the appellant in response to these concerns.²⁸ In addition, the Council and the appellant have agreed planning conditions in respect of both appeals requiring the submission of the detailed design of the proposed surface water drainage scheme and specifying that infiltration to manage the surface water from the development will only be allowed where it is demonstrated that there is no resultant unacceptable risk to controlled waters and/or ground stability.
126. On the basis of the information submitted by the appellant, the responses from statutory and technical consultees, and subject to the imposition of suitable planning conditions, I am satisfied that an appropriate surface water drainage scheme can be provided that ensures that there would be no resultant unacceptable risk to controlled waters and/or ground stability.

Land stability

127. The Chapman Avenue Residents Association, in addition to written evidence submitted by Dr J M Speight, expressed concerns at the potential impact of the proposed developments on slope stability of the north western and northern boundary of the site. The submitted Outline Slope Stability Addendum Report²⁹ specifically considers this matter.
128. Following site investigation work, the report recommends that a sterilising strip of a distance twice that of the cliff/slope vertical height is allowed for from the crest of the slope. Within this zone it is recommended that all development is avoided as well as any temporary works that might impose loads on the slope. It was also recommended that any deep bore soakaways relatively close to the slope, should discharge at a depth lower than the base of the slope/cliff.
129. The proposed layout and the Parameter Plan show that no proposed plots would be sited in the sterilising strip. However, the report also identifies that this work does not constitute a full detailed slope stability analysis and that further detailed slope stability analysis could be carried out to further refine the safe distances from the toe of offsite slopes and cliffs.

²⁷ CD21 and CD142

²⁸ Appendix MW3 – Mr Woodhead PoE

²⁹ CD149

130. I have taken into account paragraph 170(e) of the NPPF which, amongst other things, requires that planning decisions should prevent existing development from being put at unacceptable risk from land instability. Whilst recognising the local concerns, the submitted Outline Slope Stability Addendum Report is based on the analysis of site investigations and I have no reasons to question the professional competence of the author of the report.
131. I have no reasons to suggest the advice contained within the report to be erroneous but I do recognise that it is essential to ensure that no development occurs within the sterilising strip and that further slope stability analysis should be carried out in accordance with the recommendations contained therein. These matters can be required by the imposition of a suitable planning condition. Consequently, subject to the imposition of such condition, I do not consider that there would be any conflict with the relevant provisions of the NPPF.

Living conditions

132. The Council suggests that the proposed dwellings would be positioned, at their closest, approximately 16m from end of the rear gardens of properties to the west on Chapman Avenue and 'The Beams', and at least 30m from the rear of the existing houses³⁰. The existing properties are positioned at a lower level than the appeal site and the submitted plans indicates that there would be landscaping along the western boundary of the site. Given these separation distances and the proposed intervening planting, I do not consider that the proposed developments would cause any overlooking, loss of privacy or overshadowing of an extent that that would cause material harm to the occupants of those existing properties sufficient to warrant the dismissal of these appeals.
133. Similarly, the Council also suggest that properties to the south on Woolley Road would be at least 24m away from the nearest proposed dwellings, properties to the north off Longham Copse would be at least 38m away, Squerryes Oast 70m away, Rectory Cottage 34m away, Church House and the Coach House at least 42m away. Given these separation distances I do not consider that the proposed developments would cause harm to the living conditions of the occupants of those existing properties.

Fear of crime

134. At the Inquiry concerns were raised that the proposed layout that provides for a footpath and trim trail along the western boundary of the site and in close proximity to the rear of property boundaries on Chapman Avenue could increase the risk of crime to those properties. There is currently an informal footpath route that runs along the western boundary of the site which is limited in public views in the context of providing surveillance.
135. The submitted Design and Access Statements demonstrate that the design of the proposed developments incorporate the principles of 'Secured by Design' and have taken into account the advice provided in the "Safer places – the Planning System and Crime Prevention" (Office of the Deputy Prime Minister, April 2004). The design of the proposed developments incorporates a number of attributes that are relevant to crime prevention.

³⁰ CD169 – paragraph 6.85

136. I have no evidence to indicate the extent to which properties in the local area, in particular properties on Chapman Avenue, already experience crime. The layout of the proposed developments would provide for the frontages of properties to have a degree of overlooking of the proposed footpath and other public areas. This therefore provides a degree of surveillance and defensible space.
137. Whilst I recognise local residents concerns in this matter, I do not consider that there is any demonstrable evidence before me to suggest that the proposed developments would give rise to a risk of increased crime in the area.

Use of Public Rights of Way

138. The proposed developments do not materially change the route of any Public Rights of Way in the area. They do include measures to improve the surfacing of path KM86 and provide for the landscaping along the route of the path through the site together with the creation of other informal paths along the western boundary and the provision of a connection to Woolley Road.
139. However, I recognise that there would be landscape change to the area surrounding footpath KM86 as it passes through the site as a consequence of the proposed developments. In addition, the users of the footpath network to the east of the site would experience a change in views looking to the west and towards Church Road. In respect of these matters I have carefully considered the concerns of The Ramblers.³¹
140. Taking into account my findings regarding the impact of the proposed developments on the character and appearance of the surrounding area, I accept that there would be a change to the landscape in the vicinity of St Nicholas Church when viewed from the public rights of way networks. This change would, to some degree, soften over time as the peripheral site landscaping matures.
141. I recognise that the degree of landscape change will have some detrimental impact on the enjoyment of the local public rights of way network. I also recognise that in allocating the site suitable for development such consequential landscape change was found acceptable by the Council. Notwithstanding this, the effect of the proposed developments on the enjoyment of the local public rights of way network does carry some limited weight against the schemes.

Access by emergency vehicles

142. Concerns were expressed in the Inquiry that the proposed access arrangements off Church Road may be unsuitable for access by emergency vehicles. A Swept Path Analysis exercise of a fire tender accessing the site was submitted with the planning applications³². In the absence of any other technical information, I have no contrary evidence to suggest that the swept path analysis may be incorrect and therefore no basis to suggest that emergency vehicles will be unable to access the site.

³¹ CPRE 5 PoE – The Ramblers

³² Appendix A17 of Transport Assessment – CD145

143. It is also proposed that the internal spine road is designed as a 6.0m wide major access road, to allow this to operate as a bus route. Such road width is suitable for use by emergency vehicles.

Church car park

144. In the Inquiry there were mixed views expressed by the Rule 6 Parties regarding the provision of a car park for the Church. The appeal proposals both provide for a dedicated car park. In my view, the provision of the car park has some limited benefit in assisting in sustaining the viability of the Church as a community asset. Furthermore, as explained above, I do not consider its provision would have any effect on the setting of nearby heritage assets.

Ancient woodland

145. The highway boundary on Church Road is located in close proximity to the ancient woodland. I have taken into account the provisions of paragraph 175(c) of the NNPF. The proposed widening of Church Road does not cause any encroachment of the highway boundary into the area designated as ancient woodland. Consequently, I do not consider that the proposed developments would result in any conflict with the relevant provisions of the NNPF.

Planning Obligations

146. Completed agreements pursuant to Section 106 of the Town and Country Planning Act 1990 have been provided in respect of both appeals. In considering whether the agreements are appropriate I have taken into account the provisions of the Community Infrastructure Levy (CIL) Compliance Statement provided by the Council³³.
147. Both agreements provide for a Primary Education Contribution which are defined as the expansion of the Greenfields Community Primary School and contain the agreed basis for calculating the required financial contribution. The CIL Compliance Statement identifies that there is express exclusion from CIL charges to secure contributions towards "expansion of an existing school within south-east Maidstone to accommodate site H1(8)", the appeal site, through a Section 106 obligation. These provisions are necessary to mitigate the impacts of the proposed developments on education services.
148. The agreements also make provision for 30% of the housing units to be provided as affordable dwellings of which 70% are to be affordable rented housing and 30% would be shared ownership dwellings. The agreement relative to Appeal A also includes an obligation to submit a Phasing Plan which would identify the location of affordable dwellings in each phase. These provisions are consistent with the requirements of Policy SP20 of the Local Plan.
149. The appellant has provided an Affordable Housing Statement³⁴ which demonstrates that there is a substantial unmet need for affordable housing across Kent. The provision required by the agreements would therefore represent a substantial social and public benefit.

³³ ID 22

³⁴ Appendix MW1 – Mr Woodhead PoE

150. Both agreements also provide for a financial contribution towards improvements to that part of the National Cycle Route 177 from Church Road to Deringwood Drive. This contribution is necessary to encourage sustainable transport modes and mitigate vehicle usage. The improvements to the cycle route would be a general public benefit to which I attach moderate weight.
151. A Framework Travel Plan was submitted to support the applications relevant to both appeals in accordance with the requirements of Policies SP23 and DM21 of the Local Plan and set out targets to reduce vehicle trips arising from the development proposals. Both agreements provide for a financial contribution payable to the Council for the purposes of monitoring the Travel Plan. These are necessary to assist in mitigating travel demand to the levels assumed in the Transport Assessment in accordance with the relevant policies.
152. Both agreements provide for the transfer of the proposed car park to serve St Nicholas Church to the Diocese of Canterbury for a nominal fee subject to certain obligations regarding its future use. The provision of the car park has some benefit to the free flow of traffic by reducing the number of vehicles that park on Church Road and thereby constraining the width of the useable carriageway. Whilst this has some degree of benefit to the general public, I consider that this attracts only limited weight.
153. All of the above obligations have been demonstrated to be necessary to make the developments acceptable and are relevant to the developments, reasonable in scale and kind and are justified in accordance with CIL Regulations. I am satisfied with the form, drafting and content of the obligations. I have therefore taken these into account and attached appropriate weight to the provisions contained therein that would provide public benefits.

Other benefits of the developments

154. In addition to the benefits already identified above, the developments would have significant benefits for the local and national economy. The investment represented by these developments would also be consistent with the economic dimension of sustainable development. The undisputed economic benefits would include investment in construction and related employment for its duration. Benefits would also include an increase in local household spending and demand for services. These benefits are also afforded substantial weight.
155. Improvements are also proposed by the appellants to the footpath KM86, including the provision of a ramped access at the north western corner of the site, and the provision of a linkage to Woolley Road. These improvements could be secured by planning conditions. Although minor in nature, they would have some benefit for existing residents as well as future occupiers of the development itself and therefore carry moderate weight.
156. Criterion 10 of Policy H1(8) requires that development of the site should provide for 2.88ha of natural/semi-natural open space. The proposals would provide for approximately 4.4ha of open space. In my view, the open space would primarily serve the residents of the proposed new houses and would be of limited benefit to the existing residents of the area. There is some encroachment of development in the south eastern corner of the site into the area required to be maintained as open space as identified in policies OS1(16) and DM19. However, I do not consider this to undermine the overall objective of these policies, particularly as the Council has raised no objections to this

encroachment. There is also a modest set of ecological enhancements proposed within both appeal schemes. Therefore, collectively I have afforded these benefits limited weight.

Planning Balance

157. The appeal site forms part of a number of sites in the SEMSDL that were allocated for housing development in a recently adopted Local Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF at paragraph 11(c) advises that for decision making development proposals that accord with an up-to date development plan should be approved without delay.
158. The appeal proposals relate to an allocated site and accord with the location and scale of development proposed in the Local Plan. There is no evidence to suggest that the site is otherwise than sustainably located in relation to its proximity to the town centre and local services. Connectivity would be improved by the enhanced accessibility proposals associated with the footpath and cycleway improvements and the opportunity for the site to be accessed by public transport.
159. Whilst there would be an impact on congestion, I have found that this would not constitute a conflict with Policy DM21 of the Local Plan. Furthermore, the potential congestion that would be caused to Willington Street would not be of an extent that can be considered to constitute a severe residual impact in the context of paragraph 109 of the NPPF.
160. In addition, I have found that the proposed developments would not demonstrably cause worsening safety issues on Church Road to the south of the site. Consequently, the proposals would not have a material detrimental effect on the safe and efficient operation of the highway network in the vicinity of the appeal site. As such there would be no conflict with the relevant policies contained within the Local Plan.
161. I have found that there would be less than substantial harm to the setting of heritage assets. In accordance with the relevant provisions of the NPPF I am required to weigh this less than substantial harm against any public benefits of the proposals.
162. I have set out above the public benefits of providing up to 440 houses in the case of Appeal A and 421 houses in the case of Appeal B. These include affordable housing to meet a demonstrable housing need on an allocated housing site. I have attached significant weight to these benefits. In addition, there are other social and economic benefits associated with the construction and occupation of the dwellings and improvements to the accessibility of the local footpath and cycle network that I have identified above. I have also identified the appropriate weight that should be attached to these benefits. The significance of these public benefits outweighs the less than substantial harm that would be caused to the setting of the heritage assets identified.
163. There would undoubtedly be a change to the character and appearance of the appeal site with the proposed housing in place as a result of a change in the land use from an agricultural one to a predominantly residential one. The appeal site is not protected for its landscape character or quality. I do not

consider that the site in its current form makes such a significant positive contribution to the localised or wider landscape setting to the extent that there would be serious harm to the character and appearance of the surrounding local area as a consequence of the proposed developments, particularly as these matters were also considered at the local plan allocation stage. The proposed enhanced green edge to the site will contribute to the local green infrastructure and, over time, mitigate some of the visual effects of the developments.

164. Many other matters were raised by Rule 6 and interested parties in the Inquiry. Although these matters have been carefully considered, they do not alter the main issues which have been identified as the basis for the determination of these appeals, particularly in circumstances where the Council has not objected to the appeal schemes for these other reasons.
165. Overall, I find that the development proposals in both Appeal A and Appeal B accord with the development plan when taken as a whole. There are no other considerations of such weight as to warrant a decision other than in accordance with the aforementioned development plan policies and the NPPF. Therefore, in accordance with paragraph 11(c) of the NPPF these appeals should be allowed.

Conditions

166. I have considered the planning conditions, including a number of pre-commencement conditions, that were provided and agreed between the Council and the appellant and discussed at the Inquiry. I have considered these against the advice given in paragraph 55 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.

Appeal A

168. I have attached conditions limiting the life of the planning permission and setting out the requirements for the submission of reserved matters (condition Nos. 1-3). I have imposed a condition (No. 4) relating to the approved plans in the interests of certainty.
169. As part of the submission of reserved matters conditions are necessary to set out the parameters for landscaping, the buffer to the Ancient Woodland, open space provision and details of the proposed car park for St Nicholas Church (conditions Nos. 6, 7, 8, 10 and 11). In order to encourage the use of sustainable travel modes conditions are also necessary to ensure that the layout details submitted as part of a reserved matters submission provide pedestrian and cycle links to link with off-site public rights of way, cycle routes, open space and to Woolley Road and that a ramp is provided at the north western corner of the site (condition Nos. 9 and 17). However, I have amended the suggested condition in No. 9 to ensure that consideration is also given to the access arrangements for cyclists from the proposed cycle link from Church Road to 'The Beams' and the open space area to the north west of the site.
170. In order to ensure that the surface water arising from the proposed development can be appropriately drained and does not either cause off-site or on-site flood risk or any resultant risk to controlled waters and/or ground

- instability, conditions are necessary requiring the submission of details of the proposed drainage scheme and the subsequent verification of its installation (conditions Nos. 12, 13 and 30). These are also required to ensure that the construction of the development accords with the submitted Flood Risk and Sustainable Drainage Assessment (March 2019).
171. In the interests of protecting the ecology of the area, a condition requiring the implementation of the submitted ecological mitigation measures, and any necessary updated measures, is necessary (Ecological Appraisal - Aspect Ecology - March 2019) (condition No. 14). Also, in the interests of protecting the ecology of the area, and in the interests of protecting the character and appearance of the area, a condition is necessary requiring the submission and implementation of a site-wide landscape and ecological management plan (condition No. 27).
 172. A condition requiring a site investigation of the nature and extent of any contamination affecting the site, along with any requisite remediation, is also necessary to safeguard the health and well-being of future occupiers (condition No. 15). A condition requiring an investigation and the recording of the potential archaeological interest on the site is necessary in order to ensure that any archaeological interest is recorded or safeguarded (condition No. 16).
 173. The submission and approval of a Construction Management Plan is necessary to safeguard the living conditions of local residents and in the interests of highway safety (condition No. 18). However, I have amended the suggested condition to include the submission of mitigation measures for noise, dust, vibration, the minimisation of the deposition of mud on Church Road and the hours of construction work and deliveries. In the interests of ensuring that the proposed development does not put existing development adjoining the site at an unacceptable risk from land instability, a condition is required requiring a slope stability analysis and measures to ensure that construction works do not give rise to land instability issues (condition No. 19).
 174. The submission of details of air quality mitigation, including electric vehicle charging points, is necessary in order to mitigate any effects of the development on air quality (condition No. 21). A condition requiring an external lighting scheme is also necessary to minimise the effect of artificial light on local species (condition No. 22).
 175. A condition requiring the early provision of the car park for St Nicholas Church is necessary in the interests of highway safety and to maintain the usability of the Church (condition No. 23). In the interests of highway safety and flow of traffic, conditions are necessary requiring the provision of the site access and off-site junction and highway improvement works (Conditions Nos. 5, 20, 24, and 25). However, I have amended the suggested condition relating to access to ensure that the access points are provided prior to the commencement of any development above slab level.
 176. To promote sustainable modes of transport and reduce the need for travel by car, conditions are necessary to secure the implementation of the Travel Plan, upgrade works to Public Right of Way KM86 and design details of pedestrian/cycle routes (conditions Nos. 26, 28 and 29).

177. In order to promote the minimisation of energy usage and in the interest of sustainable development, a condition is necessary to ensure the provision of photovoltaic panels on some of the proposed dwellings (Condition No. 31).

Appeal B

178. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty.
179. In the interests of protecting the character and appearance of the area, conditions are necessary relating to boundary treatment, the treatment of hard surfaces, landscaping of the site, retention of open space areas, the details of the construction materials proposed to be used, phasing plan, the provision of public art, the implementation of a landscape and ecological management plan and arboricultural method statement (conditions Nos. 3, 4, 5, 6, 12, 18, 20, 22, 23, 24, 28 and 34).
180. Conditions requiring a site investigation of the nature and extent of any contamination affecting the site, along with any requisite remediation, are necessary to safeguard the health and well-being of future occupiers (condition Nos. 16 and 37). In the interests of ensuring that the proposed development does not put existing development adjoining the site at an unacceptable risk from land instability, a condition is required requiring a slope stability analysis and measures to ensure that construction works do not give rise to land instability issues (condition No. 19).
181. A condition requiring an investigation and the recording of the potential archaeological interest on the site is also necessary in order to ensure that any archaeological interest is recorded or safeguarded (condition No 17).
182. Conditions requiring an external lighting scheme are also necessary to minimise the effect of artificial light on local species and in the interests of protecting the living conditions of existing nearby residents and the future occupants of the development (condition Nos 26 and 27).
183. To promote sustainable modes of transport, reduce the need for travel by car and provide access for all users, conditions are necessary to secure the implementation of the Travel Plan and the provision of footpath, cycle links, ramped access in the north west corner of the site and electric vehicle charging points (conditions Nos 9, 11, 25, 33, 35, and 38).
184. The submission and approval of a Construction Management Plan is necessary to safeguard the living conditions of local residents and in the interests of highway safety (condition No. 8). However, I have amended the suggested condition to include the submission of mitigation measures for noise, dust, vibration and the minimisation of the deposition of mud on Church Road and the hours of construction work and deliveries
185. A condition requiring the early provision of the car park for St Nicholas Church is necessary in the interests of highway safety and to maintain the usability of the Church (condition No. 10). Also in the interests of highway safety, conditions are necessary requiring the provision of the site accesses, off-site highway improvements, measures to maintain the access visibility splays and the provision of parking/turning areas for each building (conditions Nos. 7, 29, 30 and 32). However, I have amended the suggested condition relating to

access to ensure that the access points are provided prior to the commencement of any development above slab level.

186. In the interests of protecting the ecology of the area, conditions are necessary requiring the implementation of the submitted ecological mitigation measures and any necessary updated measures (Ecological Appraisal - Aspect Ecology - March 2019) (condition Nos. 13 and 21).
187. In order to ensure that the surface water arising from the proposed development can be appropriately drained and does not either cause off-site or on-site flood risk or land instability problems, conditions are necessary requiring the submission of details of the proposed drainage scheme and measures to ensure that the construction of the development accords with the submitted Flood Risk and Sustainable Drainage Assessment (dated January 2020 by Herrington) and does not cause harm to controlled waters (conditions Nos. 14, 15 and 36).
188. The submission of details of air quality mitigation, including electric vehicle charging points, is necessary in order to mitigate any effects of the development on air quality (condition No. 25). In order to promote the minimisation of energy usage and in the interest of sustainable development, a condition is necessary to ensure the provision of photovoltaic panels on some of the proposed dwellings (condition No. 31).

Conclusion

189. There are no other considerations of such weight as to warrant a decision other than in accordance with the aforementioned development plan policies and the Framework. Consequently, for the above reasons, based on the evidence before me and all other matters raised, I conclude that both appeals should be allowed subject to conditions.

Stephen Normington

INSPECTOR

Attached

1. Appearances
2. List of Plans and documents submitted during the Inquiry
3. Schedule of conditions for Appeal A
4. Schedule of conditions for Appeal B

1. APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Megan Thomas	of Counsel instructed by Maidstone Borough Council
She called	
Brendan Wright BA(Hons) MCIHT	Principal Transport and Development Planner, Highways and Transportation, Kent County Council
Robert McQuillan BA(Hons) MCD MRICS MRTPI	Planning Consultant Robinson Escott Planning LLP

FOR THE APPELLANT

Hashi Mohamed	of Counsel instructed by Bellway Homes Limited
He called	
Paul Lulham MSc MA MCILT	Director of Transport Planning, DHA Planning
Matthew Woodhead BA(Hons) BTP, MAUD, MRTPI	Director of Planning and Urban Design DHA Planning
For the Appellant (Round Table Sessions)	
Liz Vinson BA(Hons) MSc IHBC	Director of HCUK Group
Harvey Parfitt	Phlorum Limited

RULE 6 PARTIES

CPRE (Kent)

Richard Knox-Johnston	Maidstone District CPRE
Rachel Gray	Otham Parish Council
Brian Page	St Nicholas Church Otham PCC
Malcolm Kersey	Local Resident
David Hatcher	Chapman Avenue Area Residents Association

Councillor George Newton

Maidstone Borough Councillor

Graham Smith

Ramblers Maidstone Branch

MAIDSTONE BOROUGH COUNCIL LABOUR GROUP

Councillor Malcolm McKay

Maidstone Borough Councillor

DOWNSWOOD PARISH COUNCIL

Councillor Martin Weeks

Downswood Parish Councillor

MAIDSTONE CYCLE CAMPAIGN FORUM

Duncan Edwards

Maidstone Cycle Campaign Forum

INTERESTED PERSONS

Councillor Val Springett

Maidstone Borough Councillor

Councillor Paul Harper

Maidstone Borough Councillor

2. LIST OF PLANS AND DOCUMENTS SUBMITTED DURING THE INQUIRY

- ID1 Appellant's opening statement
- ID2 Council's opening statement
- ID3 CPRE opening statement
- ID4 Maidstone Borough Council Labour Group opening statement
- ID5 Downswood Parish Council opening statement
- ID6 Maidstone Cycle Campaign Forum opening statement
- ID7 Appeal Decisions APP/U1105/A/13/2208393, APP/M2325/A/14/2217060 and APP/N4720/W/15/3004034 submitted by the appellant.
- ID8 Appeal Decisions APP/E2205/W/19/3227775, APP/V2255/15/3067053 and APP/V2235/16/3148140 submitted by CPRE
- ID9 Note submitted by the Council setting out the planning policy status of the Kent County Council Design Guide 2005
- ID10 Plans List submitted by the appellant in respect of both appeals
- ID11 Schedule of resident parking per plot in respect of Appeal B submitted by the appellant
- ID12 Note submitted by the appellant regarding the funding status of Highways Improvement Package 1 – South East Maidstone Strategic Development Location (SEMSDL) within the adopted Local Plan
- ID13 Note submitted by Council on Wavendon Properties Ltd v. Secretary of State for Housing, Communities and Local Government [2019] EWHC 1524 (Admin) and Hallam Land Management Ltd v Secretary of State for Communities and Local Government [2018] EWCA Civ 1808
- ID14 Closing submissions by the Council
- ID15 Closing submissions by CPRE
- ID16 Closing submissions by Maidstone Borough Council Labour Group
- ID17 Closing submissions by Downswood Parish Council
- ID18 Closing submissions by Maidstone Cycle Campaign Forum
- ID19 Closing submissions by appellant
- ID20 List of conditions for Appeal A agreed between the appellant and the Council
- ID21 List of conditions for Appeal B agreed between the appellant and the Council

ID22 CIL Compliance Statement

ID23 Completed Deed of Agreement pursuant to Section 106 of the Town & Country Planning Act 1990 for Appeal A dated 14 December 2020 submitted by the appellant

ID24 Completed Deed of Agreement pursuant to Section 106 of the Town & Country Planning Act 1990 for Appeal B dated 14 December 2020 submitted by the appellant

3. SCHEDULE OF CONDITIONS FOR APPEAL A

Standard time limit

- 1) No phase of the development hereby approved shall commence until the following reserved matters have been submitted to and approval has been obtained in writing from the local planning authority for that phase: a) Scale b) Layout c) Appearance d) Landscaping. The development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Details and drawings subject to the permission

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan - 16206 S102 Rev A
Parameter Plan - 16206 C03 Rev M
Proposed Access Arrangement - 16-T114 06 Rev F
Proposed Amendments to Church Road Northern Section (junction with Deringwood Drive) - Drawing 16-T114 34.1
Proposed Amendments to Church Road Section Immediately Outside Site Area - Drawing 16-T114 34.2
Proposed Off Site Highway Improvements (1 of 4) - 14590-H-01 P1
Proposed Off Site Highway Improvements (2 of 4) - 14590-H-02 P1
Proposed Off Site Highway Improvements (3 of 4) - 14590-H-03 P2
Proposed Off Site Highway Improvements (4 of 4) - 14590-H-03 P2
Willington Street/Deringwood Drive Junction - Proposed Traffic Signals - 14195-H-01 P5
Spot Lane Junction Potential Adjustments - 14195-H-02 P2

Access

- 5) No development above slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays shall be kept free of obstruction above a height of 1 metre.

Parameters

- 6) The layout details submitted pursuant to condition 1 shall follow the principles of the development areas and buffers/landscape areas as shown on the approved Parameter Plan (Drawing No. 16206 C03 Rev M).
- 7) The layout details submitted pursuant to condition 1 shall provide at least a 30m woodland planted development free buffer to the Ancient Woodland in the southern part of the site as shown on the approved Parameter Plan (Drawing No. 16206 C03 Rev M).

- 8) The layout details submitted pursuant to condition 1 shall provide at least 2.88 hectares of on-site public open space.
- 9) The layout and access details submitted pursuant to condition 1 shall provide the following:
 - A pedestrian and cycle link from Church Road to the development area via the open space to the north of St Nicholas Church and Church House.
 - A pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road.
 - Measures to ensure that cyclists can gain access to the The Beams and the Play area to the north west of the site from the cycle link identified above from Church Road to the development area via the open space to the north of St Nicholas Church and Church House.
- 10) The landscape details submitted pursuant to condition 1 shall provide the following:
 - Native planting within the buffers areas as shown on the Parameter Plan (Drawing No. 16206 C03 Rev M).
 - Strengthening and replacement native hedge planting along the site frontage with Church Road.
 - Woodland planting within the Ancient Woodland buffer
 - Orchard planting to the south of St Nicholas Church.
- 11) The details submitted pursuant to condition 1 shall include full details of the proposed car park for St Nicholas Church (as identified on Drawing No. 16206 C03 Rev M - Parameter Plan) including the detailed layout, barrier, overall design and implementation programme. Once implemented the car park shall only be used in connection with use of the Church for parking purposes only.

Pre-Commencement conditions

- 12) No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the principles within the Flood Risk and Sustainable Drainage Assessment (Herrington, March 2019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details prior to occupation.

- 13) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information has been submitted to, and approved in writing by the local planning authority, to demonstrate that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.
- 14) No development shall take place until the mitigation measures detailed within chapter 6 of the Ecological Appraisal (Aspect Ecology; March 2019) have been implemented as detailed. If works have not commenced by March 2021 an updated ecological mitigation strategy shall be submitted to the local planning authority for written approval. It must include the following information:
- a) Updated ecological appraisal
 - b) Results of recommended specific species surveys
 - c) Overview of the ecological mitigation required
 - d) Detailed methodology to implement the mitigation
 - e) Timing of the proposed works
 - f) Details of who will be carrying out the works,
 - g) Maps clearly showing the mitigation areas.

The mitigation shall be implemented in accordance with the approved measures.

- 15) No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the local planning authority:
- a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (b). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

- d) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (c) above. This shall include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

- 16) No development shall take place until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) archaeological field evaluation works in accordance with specification and written timetable for undertaking site investigation work.
 - b) the programme and methodology of site investigation and recording;
 - c) the programme for post investigation assessment and evaluation;
 - d) any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.

The development shall thereafter be undertaken in accordance with the approved scheme.

- 17) Before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the north west of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 18) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- Development contacts, roles and responsibilities;
 - Details of liaison arrangements to be carried out with local groups who may be affected by construction including the St Nicholas Church;
 - The hours of construction work and deliveries;
 - Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction;
 - Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction;
 - Details of the routing of construction traffic to the site and any traffic management measures.
 - Details of measures to be taken to minimise the deposition of mud and deleterious material on Church Road.

- Mitigation measures in respect of noise, dust, vibration and disturbance during the construction phases.

The development shall be carried out in accordance with the approved CEMP.

- 19) No development shall take place until details have been submitted to and approved in writing by the local planning authority which provide a slope stability analysis and identifies any remedial measures necessary to ensure that the proposed development does not give rise to any land instability issues both on and off the site. Such details shall provide:
- a) Analysis and details of any necessary on or off-site remediation measures necessary to ensure that the development will pose no unacceptable risk to land instability.
 - b) Measures to define the extent of any sterilisation strip on site and the measures to be employed to ensure that no development occurs within the sterilisation strip during construction operations that could prejudice the stability of land on or off-site.
 - c) The methodology to be employed to ensure that any necessary works within the sterilisation strip do not give rise to land instability issues.

The development shall thereafter be undertaken in accordance with the approved details.

Pre-Slab Level

- 20) No development above floor slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays kept free of obstruction above a height of 1 metre.
- 21) No development above floor slab level shall take place until details of air quality mitigation measures, which shall include the type and location of electric vehicle charging points, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 22) No development above floor slab level shall take place until a "bat sensitive lighting plan" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:
- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory.
 - b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the approved plan.

- 23) The development shall not commence above floor slab level until the proposed car park for St Nicholas Church has been constructed and is available for use in accordance with the details approved in writing by the local planning authority pursuant to the requirements of condition No. 11 above.
- 24) The development shall not commence above floor slab level until the following off-site highways works have been provided in full:
 - a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note — July 2019' or any alternative scheme agreed in writing by the local planning authority;
 - b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5 (scheme to include toucan cycle crossing), or any alternative scheme agreed in writing by the local planning authority;
 - c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note — July 2019'.

Pre-Occupation

- 25) The development shall not be occupied until the following off-site highways works have been provided in full:
 - a) The proposed work as shown in drawing Nos 14590 H-01 P1, 14590 H-02 P1, 14590 H-03 P2, and 14590 H-04 P2;
 - b) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing by the local planning authority; and,
 - c) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 Rev P2, or any alternative scheme agreed in writing by the local planning authority.
- 26) The development shall not be occupied until a Detailed Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Detailed Travel Plan.
- 27) The development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable.

- 28) The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.
- 29) Before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points. Such design specification shall ensure that the cycle routes provided are no less than 3m wide. The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 30) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to and approved in writing by the local planning authority. Such Report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed. No development shall be occupied until the surface water drainage scheme has been implemented in accordance with the details provided in the Report.
- 31) The reserved matters details submitted pursuant to condition 1 shall provide for 10% of the affordable residential units to be provided with photovoltaic (PV) panels. Such PV panels shall be provided prior to the occupation of the residential unit on which they are proposed to be installed.

4. SCHEDULE OF CONDITIONS FOR APPEAL B

Standard time limit

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Details and drawings subject to the permission

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

Location plan - 16206 S101 Rev A
Existing Site Survey - 16206 S102 Rev B
Site Layout Masterplan - 16206 P101 Rev U
Coloured Site Layout Masterplan - 16206 C101 Rev S
Site Layout (North) - 16206 P102 Rev D
Site Layout (South) - 16206 P103 Rev B
Site Layout (Colour coded by type) - 16206 P104
Site Layout (Hard surfaces) - 16206 P105 Rev A
Proposed Street Scenes A-A & B-B - 16206 P110 Rev E
Proposed Street Scenes C-C & D-D - 16206 P111 Rev E
Proposed Street Scenes E-E to G-G - 16206 P112 Rev D
Proposed Street Scenes H-H & J-J - 16206 P113 Rev E
Proposed Street Scenes K-K to M-M - 16206 P114 Rev D
Proposed Street Scenes N-N & P-P - 16206 P115 Rev D
Proposed Street Scenes Q-Q & R-R - 16206 P116 Rev D
Coloured Street Scenes A-A & B-B - 16206 C110 Rev D
Coloured Street Scenes C-C & D-D - 16206 C111 Rev D
Coloured Street Scenes E-E to G-G - 16206 C112 Rev C
Coloured Street Scenes H-H & J-J - 16206 C113 Rev B
Coloured Street Scenes K-K to M-M - 16206 C114 Rev B
Coloured Street Scenes N-N & P-P - 16206 C115 Rev B
Coloured Street Scenes Q-Q & R-R - 16206 C116 Rev B
Affordable House types, 2 Bedroom - 16206 P120
Affordable House types, 3 Bedroom (1 of 2) - 16206 P121
Affordable House types, 3 Bedroom (2 of 2) - 16206 P122
Affordable House types, 4 Bedroom - 16206 P123 Rev A
Private 2 Bed Houses - Type 2A (1 of 2) - 16206 P130 Rev A
Private 2 Bed Houses - Type 2A (2 of 2) - 16206 P131 Rev A
Private 2 Bed Houses - Type 2A & 2B terrace - 16206 P132 Rev A
Private 2 Bed Houses - Type 2B (1 of 3) - 16206 P133 Rev A
Private 2 Bed Houses - Type 2B (2 of 3) - 16206 P134 Rev A
Private 2 Bed Houses - Type 2B (3 of 3) - 16206 P135 Rev A
Private 3 Bed Houses - Type 3A (1 of 2) - 16206 P136
Private 3 Bed Houses - Type 3A (2 of 2) - 16206 P137
Private 3 Bed Houses - Type 3B (1 of 2) - 16206 P138 Rev A
Private 3 Bed Houses - Type 3B (2 of 2) - 16206 P139 Rev B
Private 3 Bed Houses - Type 3C (1 of 2) - 16206 P140 Rev C
Private 3 Bed Houses - Type 3D (1 of 3) - 16206 P141
Private 3 Bed Houses - Type 3D (2 of 3) - 16206 P142

Private 3 Bed Houses - Type 3D (3 of 3) – 16206 P143
 Private 3 Bed Houses - Type 3D/3B (1 of 7) – 16206 P144
 Private 3 Bed Houses - Type 3D/3B (2 of 7) – 16206 P145 Rev A
 Private 3 Bed Houses - Type 3D/3B (3 of 7) – 16206 P146
 Private 3 Bed Houses - Type 3D/3B (4 of 7) – 16206 P147
 Private 3 Bed Houses - Type 3D/3B (5 of 7) – 16206 P148 Rev A
 Private 3 Bed Houses - Type 3D/3B (6 of 7) – 16206 P149 Rev A
 Private 3 Bed Houses - Type 3D/3B (7 of 7) – 16206 P150 Rev A
 Private 3 Bed Houses - Type 3E – 16206 P151 Rev B
 Private 3 Bed Houses - Type 3C (2 of 2) – 16206 P152 Rev A
 Private 3 Bed Houses - Type 3C1 – 16206 P153
 Private 4 Bed Houses - Type 4A (1 of 2) – 16206 P155
 Private 4 Bed Houses - Type 4A (2 of 2) – 16206 P156
 Private 4 Bed Houses - Type 4B (1 of 4) – 16206 P157 Rev A
 Private 4 Bed Houses - Type 4B (2 of 4) – 16206 P158 Rev A
 Private 4 Bed Houses - Type 4B (3 of 4) – 16206 P159 Rev A
 Private 4 Bed Houses - Type 4B (4 of 4) – 16206 P160 Rev B
 Private 4 Bed Houses - Type 4C – 16206 P161
 Private 4 Bed Houses - Type 4D (1 of 4) – 16206 P162
 Private 4 Bed Houses - Type 4D (2 of 4) – 16206 P163 Rev B
 Private 4 Bed Houses - Type 4D (3 of 4) – 16206 P164 Rev A
 Private 4 Bed Houses - Type 4D (4 of 4) – 16206 P165 Rev A
 Affordable apartments - Block 1 Plans (1 of 2) – 16206 P170 Rev B
 Affordable apartments - Block 1 Plans (2 of 2) – 16206 P171 Rev B
 Affordable apartments - Block 1 Elevations – 16206 P172 Rev B
 Affordable apartments - Block 2 Plans (1 of 2) – 16206 P173 Rev B
 Affordable apartments - Block 2 Plans (2 of 2) – 16206 P174 Rev B
 Affordable apartments - Block 2 Elevations – 16206 P175 Rev C
 Affordable apartments - Block 3 Plans – 16206 P176 Rev C
 Affordable apartments - Block 3 Elevations – 16206 P178 Rev B
 Affordable apartments - Block 4 Plans – 16206 P179 Rev B
 Affordable apartments - Block 4 Elevations – 16206 P180 Rev B
 Affordable apartments - Block 5 Plans – 16206 P181 Rev D
 Affordable apartments - Block 5 Elevations – 16206 P182 Rev C
 Affordable apartments - Block 6 Plans – 16206 P183 Rev C
 Affordable apartments - Block 6 Elevations – 16206 P184 Rev D
 Affordable apartments - Block 7 Plans – 16206 P185 Rev D
 Affordable apartments - Block 7 Elevations – 16206 P186 Rev C
 Affordable apartments - Block 8 Plans – 16206 P187 Rev C
 Affordable apartments - Block 8 Elevations – 16206 P188 Rev C
 Affordable apartments - Block 9 Plans – 16206 P189 Rev B
 Affordable apartments - Block 9 Elevations – 16206 P190 Rev B
 Private apartments - Block 10 Plans (1 of 2) – 16206 P191 Rev B
 Private apartments - Block 10 Plans (2 of 2) – 16206 P192 Rev B
 Private apartments - Block 10 Elevations – 16206 P193 Rev B
 Private apartments - Block 11 Plans – 16206 P194 Rev B
 Private apartments - Block 11 Elevations – 16206 P195 Rev C
 2 Bedroom F.O.G - Plans & Elevations (1 of 2) – 16206 P196
 2 Bedroom F.O.G - Plans & Elevations (2 of 2) – 16206 P197 Rev A
 2 Bedroom Gate House - Plans & Elevations – 16206 P198 Rev A
 Ancillary Buildings (Garages & substation) – 16206 P199 Rev B

OSP drawings listed within the drawing issue sheet dated 5/09/2020 (CD132) (all drawings in CD1, CD50-CD130, and CD133-137)

Materials Distribution Diagram - 16206 - SK55D

Landscape Strategy Plan – 6703.LSP.ASP5 Rev L

Proposed Access Arrangement - Drawing 16-T114 06 Rev F

Proposed Amendments to Church Road Northern Section (Junction with Deringwood Drive) - 16-T114 34.1

Proposed Amendments to Church Road Section Immediately Outside Site Area - Drawing 16-T114 34.2

Proposed Off Site Highway Improvements (1 of 4) - 14590-H-01 P1

Proposed Off Site Highway Improvements (2 of 4) - 14590-H-02 P1

Proposed Off Site Highway Improvements (3 of 4) - 14590-H-03 P2

Proposed Off Site Highway Improvements (4 of 4) - 14590-H-04 P2

Willington Street/Deringwood Drive Junction - Proposed Traffic Signals - 14195-H-01 P5

Spot Lane Junction Potential Adjustments - 14195-H-02 P2-

Compliance

- 3) The development shall be carried out in accordance with the boundary treatments as shown on drawing nos. 16206 P101 Rev U and 16206/SK55D and shall be retained and maintained thereafter.
- 4) The development shall be carried out in accordance with the hard surfaces as shown on drawing no. 16206 P105 Rev A and maintained thereafter.
- 5) All planting, seeding and turfing specified in the approved landscape details shall be carried out either before or in the first planting season (October to February) following the occupation of the building(s) or the completion of the development to which phase they relate, whichever is the sooner; and any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.
- 6) Excluding the area in the southeast corner of the site adjacent to ancient woodland, the areas of open space as shown on pages 58 and 59 of the Design & Access Statement shall be maintained as publicly accessible open space in perpetuity.
- 7) The approved details of the parking/turning areas for each building shall be completed before the commencement of the use of the land or buildings to which they relate and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on parking/turning areas for each building or in such a position as to preclude vehicular access to them.

Pre-Commencement

- 8) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- Development contacts, roles and responsibilities;
 - Details of liaison arrangements to be carried out with local groups who may be affected by construction including the St Nicholas Church;
 - The hours of construction work and deliveries;
 - Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction;
 - Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction;
 - Details of the routing of construction traffic to the site and any traffic management measures.
 - Details of measures to be taken to minimise the deposition of mud and deleterious material on Church Road.
 - Mitigation measures in respect of noise, dust, vibration and disturbance during the construction phases.

The development shall be carried out in accordance with the approved CEMP.

- 9) Before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the north west of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 10) Before any part of the development hereby permitted is first commenced the details of those works proposed in the area identified as Church Parking on drawing 16206 - C101S (Coloured Site Layout) including the detailed layout, barrier, overall design and implementation programme has been submitted to and approved in writing by the local planning authority. The development shall not commence above slab level until the proposed car park for St Nicholas Church has been constructed and is available for use in accordance with the details approved. Once implemented the car park shall only be used in connection with use of the Church for parking purposes.
- 11) Before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows:
- a) all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points;
 - b) measures to ensure that cyclists can gain cycle access to 'The Beams' and the Play area to the north west of the site from the cycle routes.

Such design specification shall ensure that the cycle routes provided are no less than 3m wide. The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.

- 12) No development shall take place until a Phasing Plan for the development including open space areas has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing plan unless otherwise agreed in writing by the local planning authority.
- 13) No development shall take place until a review and, if required, an update of the mitigation measures detailed within chapter 6 of the Ecological Appraisal (Aspect Ecology; March 2019), which shall be informed by updated ecological survey(s), have been submitted to and approved in writing by the local planning authority. The review and update shall include the following information:
 - a) Updated ecological appraisal
 - b) Results of recommended specific species surveys (where required)
 - c) Letter detailing why the mitigation detailed within the Ecological Appraisal is still valid, or;
 - d) Updated mitigation strategy — including the following:
 - Over view of the ecological mitigation required
 - Detailed methodology to implement the mitigation
 - Timing of the proposed works
 - Details of who will be carrying out the works
 - Maps clearly showing the mitigation areas

The development shall proceed, and mitigation measures implemented, in accordance with the approved Ecological Appraisal and review or update.

- 14) No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk and Sustainable Drainage Assessment (dated January 2020 by Herrington) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or offsite. It shall also explore the use of more swales within the development. The drainage scheme shall also demonstrate (with reference to published guidance):
 - a) That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
 - b) Appropriate operational, maintenance and access requirements for each drainage feature or SUDS component are adequately

considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details and prior to occupation.

- 15) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to and approved in writing by, the local planning authority that demonstrates that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.
- 16) No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the local planning authority:
 - a) A preliminary risk assessment which has identified: - all previous uses - potential contaminants associated with those uses - a conceptual model of the site indicating sources, pathways and receptors of potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (b). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - d) A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in 'c'. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean. Any changes to these components require the express consent of the local planning authority.

The development shall be undertaken in accordance with the approved scheme.

- 17) No development in any phase shall take place until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) archaeological field evaluation works in accordance with a specification and written timetable for each phase of development; and

- b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority

The development shall be carried out in accordance with the approved details.

- 18) No development in any phase shall take place until an Arboricultural Method Statement (AMS) which accords with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority for that phase. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan. The development shall be undertaken in accordance with the approved AMS.
- 19) No development shall take place until details have been submitted to and approved in writing by the local planning authority which provides a slope stability analysis and identifies any remedial measures necessary to ensure that the proposed development does not give rise to any land instability issues both on and off the site. Such details shall provide:
 - a) Analysis and details of any necessary on or off-site remediation measures necessary to ensure that the development will pose no unacceptable risk to land instability.
 - b) Measures to define the extent of any sterilisation strip on site and the measures to be employed to ensure that no development occurs within the sterilisation strip during construction operations that could prejudice the stability of land on or off-site.
 - c) The methodology to be employed to ensure that any necessary works within the sterilisation strip do not give rise to land instability issues.

The development shall thereafter be undertaken in accordance with the approved details.

Pre-Floor Slab Level

- 20) No development above floor slab level shall take place until specific details of the landscaping proposals, which shall follow the principles shown on the Landscape Strategy Plan (drawing no. 6703 LSP ASP5 Rev L), have been submitted to and approved in writing by the local planning authority. The scheme shall be designed in accordance with the principles of the Council's landscape character guidance and include a planting specification, a programme of implementation and a 5 year management plan. The landscape scheme shall specifically address the need to provide the following:

- a) A landscape phasing plan for the site which shall include the planting along the west boundary within the first phase.
- b) Strengthening and replacement native hedge planting along the site frontage with Church Road.
- c) Structural native tree and shrub planting along the site frontage with Church Road.
- d) Retention of trees along the western boundary and new native tree and shrub planting.
- e) Retention of trees along the southern boundary and new native tree and shrub planting.
- f) Retention of trees along the boundaries with the property 'Squerryes Oast'
- g) Native woodland and shrub planting to create at least a 30m buffer from the Ancient Woodland in the south east corner
- h) Orchard planting to the south of St Nicholas Church.
- i) Native hedge planting within the development.
- j) LEAP and LAP details.
- k) All proposed boundary treatments for the site beyond those approved under condition No. 3.

Landscaping shall be implemented in accordance with the approved details and programme.

- 21) No development above floor slab level shall take place in any phase until full details of the ecological enhancements outlined in the Ecological Appraisal and their delivery have been submitted to and approved in writing by the local planning authority for that phase. The development shall be carried out in accordance with the approved details and measures which shall include the following:
 - a) Wildflower grassland
 - b) Measures to allow hedgehogs to move through the development
 - c) Bat and bird boxes
 - d) Habitat piles.
- 22) No development above floor slab level shall take place in any phase until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) for that phase have been submitted to and approved in writing by the local planning authority. The materials shall follow the 'Materials Distribution Diagram' (16206/SK55D) and include the following unless otherwise agreed in writing by the local planning authority:
 - a) Multi stock facing bricks
 - b) Clay hanging tiles
 - c) Clay roof tiles
 - d) Slate roof tiles
 - e) Ragstone on buildings
 - f) Ragstone walling.

The development shall be constructed using the approved materials unless otherwise agreed in writing by the local planning authority.

- 23) No development above floor slab level shall take place in any phase until written details and large-scale plans showing the following architectural detailing have been submitted to and approved in writing by the local planning authority for that phase:

- a) Soldier courses
- b) Bricked arches above windows
- c) Bullnose hanging tile detailing.
- d) Roof overhangs.

The development shall be constructed in accordance with the approved materials.

- 24) No development above floor slab level shall take place until a sample panel of the ragstone for the walling and buildings, including mortar mix details, has been submitted to and approved in writing by the local planning authority. Such details as approved shall be fully implemented on site.
- 25) No development above floor slab level shall take place until the specific air quality mitigation measures, which shall include the type and location of electric vehicle charging points (which equates to 1 EV charge point per dwelling with dedicated parking) and details of charging for properties without on-plot parking, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 26) No development above floor slab level shall take place until a "bat sensitive lighting scheme" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and these shall be maintained thereafter.

- 27) No development above floor slab level for any phase shall take place until details of lighting for streets and houses have been submitted to and approved in writing by the local planning authority for that phase. The lighting provided shall be carried out in accordance with the approved scheme.
- 28) No development above floor slab level shall take place until a written statement of public art to be provided on site in the form of a Public Art Delivery Plan in line with the thresholds set within the Public Art Guidance has been submitted to and approved in writing by the local planning

authority. This should include the selection and commissioning process, the artist's brief, the budget, possible form, materials and locations of public art, the timetable for provision, maintenance agreement and community engagement. The development shall be carried out in accordance with the approved details.

- 29) No development above floor slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays shall be kept free of obstruction above a height of 1 metre.
- 30) The development shall not commence above floor slab level until the following off-site highways works have been provided in full:
 - a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note — July 2019' or any alternative scheme agreed in writing with the local planning authority;
 - b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;
 - c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note — July 2019'.
- 31) The development shall not commence above floor slab level until full details of the proposed PV panels on 10% of the affordable residential units has been submitted to and approved in writing by the Local Planning Authority. The PV panels shall thereafter be provided in accordance with the approved details.

Pre-Occupation

- 32) The development shall not be occupied until the following off-site highways works have been provided in full:
 - a) The proposed work as shown in drawing Nos 14590 H-01 P1, 14590 H-02 P1, 14590 H-03 P2, and 14590 H-04 P2;
 - b) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing with the local planning authority; and
 - c) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 Rev P2, or any alternative scheme agreed in writing with the local planning authority.
- 33) The development shall not be occupied until a Detailed Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Detailed Travel Plan.

- 34) The development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable unless the local planning authority gives written consent to any variation.
- 35) The development shall not be occupied until details of the pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road and the timing of its delivery have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 36) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the local planning authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed. No development shall be occupied until the approved scheme has been implemented.
- 37) If during construction/demolition works 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 recommence 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 construction works then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.
- 38) The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.

Agenda Item 20



21/505249/REM Land South West Of Hermitage Lane/
Oakapple Lane, Barming, Maidstone Scale: 1:2500

REFERENCE NO - 21/505249/REM

APPLICATION PROPOSAL

Section 73 - Application for amendment to approved plans condition 1 (amendment to layout to facilitate a secondary access) and variation of condition 8 (to amend the emergency access arrangements) pursuant to 18/506068/REM (Approval of Reserved Matters for Access, Appearance, Landscaping, Layout and Scale pursuant to Outline application 13/2079 for the erection of 80 dwellings including affordable housing, associated landscaping, infrastructure and earthworks)

ADDRESS Land South West of Oakapple Lane, Barming, Maidstone

RECOMMENDATION – APPROVE WITH CONDITIONS

SUMMARY OF REASONS FOR RECOMMENDATION

- A secondary access off Broomshaw Road has already been approved in connection with application 20/501773 (181 dwellings) to the west of the site subject to a legal agreement requiring the applicant to pursue a Traffic Regulation Order for a 20mph speed limit between Broomshaw Road and Hermitage Lane before commencement of development.
- As such, the proposed change to condition 8 to allow the secondary access to open (following the requirements of legal agreement in connection with application 20/501773 being met) is acceptable from a highway safety, traffic, and amenity perspective.
- The proposed changes to the layout plans to facilitate the secondary access off Broomshaw Road are acceptable in terms of design and appearance.

REASON FOR REFERRAL TO COMMITTEE

- Barming Parish Council strongly objects and requests the application is considered by the Planning Committee for the reasons outlined in the report.
- Councillor Gooch has requested the application is considered by the Planning Committee for the reasons outlined in the report.

WARD Barming and Teston	PARISH COUNCIL Barming	APPLICANT Taylor Wimpey South East AGENT Barton Willmore
DECISION DUE DATE: 31/03/22	PUBLICITY EXPIRY DATE: 11/11/21	SITE VISIT DATE: Various in 2021/2022

RELEVANT PLANNING HISTORY

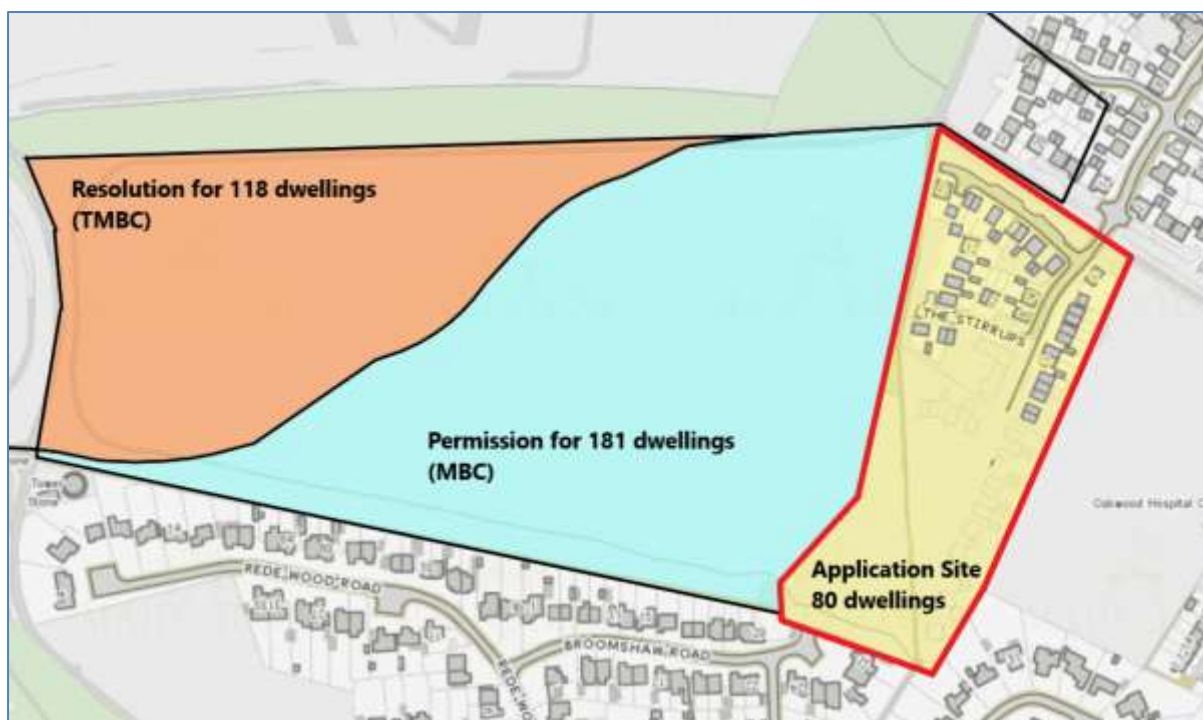
App No	Proposal	Decision	Date
21/504417	Non-material amendment: Adjustment to approved scheme and removal of condition 8 of application 18/506068/REM.	REFUSED	06/09/21
20/503176	Non-material amendment: substitute 2no. wheelchair accessible one bedroom apartments with 2no. two bedroom apartments.	APPROVED	03/09/20

18/506068	Approval reserved matters for access, landscaping, layout and scale pursuant to outline application 13/2079 for the erection of 80 dwellings.	APPROVED	27/02/19
17/500031	Proposed new access road off Oakapple Lane.	APPROVED	30/06/17
13/2079	Outline planning application with all matters reserved for the demolition of existing structures and erection of up to 80 dwellings with associated works for access, parking, infrastructure, open space and landscaping.	APPROVED	01/12/15
20/501773	(Site to the west) Erection of 181 dwellings, together with associated works for Access, Parking, Infrastructure, Open Space, Earthworks, Surface Water Drainage Systems and Landscaping.	APPROVED	15/07/21

1.0 DESCRIPTION OF SITE

1.01 The application relates to the southern part of the 'West of Hermitage Lane' housing allocation site (H1(3)) which has permission for 80 houses that are under construction and nearing completion. It is accessed off Hermitage Lane via Fullingpits Avenue and Broke Wood Way to the north. It is west of the 'Oakwood Cemetery' area of open space and north of Broomshaw Road. PROW KM12 runs north/southwards through the site and KM11 runs along the south boundary.

1.02 To the west is allocated housing site H1(4) which has permission for 181 dwellings under application. To the west of this and beyond the Borough boundary there is a resolution to approve outline permission for 118 dwellings by Tonbridge & Malling Borough Council. The site and these applications/permissions are shown below for context.



2.0 PROPOSAL

2.01 This is a 'section 73' application to change two conditions on the approved permission for the 80 dwellings.

2.02 The first change is to the 'approved plans condition' 1 to make amendments to the layout to facilitate full vehicular access off Broomshaw Road to the south, rather than just emergency access as was originally approved. These changes have already been implemented so this element of the application is retrospective.

2.03 Condition 1 states as follows and the proposed change would be to substitute the approved layout plans:

The development hereby permitted shall be carried out in accordance with the drawings listed in the 'Full Schedule of Documents and Drawings' dated 04.02.19 but excluding drawing nos. 200 Rev G and 201 F.

Reason: To clarify which plans have been approved.

2.04 The reason the applicant is applying for this is because following approval of the 80 dwellings (with only emergency access) in 2019, permission was granted for 181 dwellings to the west in 2021 and this included 'full' vehicular access off Broomshaw Road. 'Full' access was needed and approved as it was a specific requirement of the site allocation policy for that site in the Local Plan based on the number houses approved from sites H1(3) and H1(4) at that point totalling 511 dwellings.

2.05 This approved 'full' access has a slightly wider road with pavements either side. Whilst the applicant can implement this access in connection with the '181 dwelling' permission, this requires changes to the layout approved for the 80 dwellings.

2.06 Therefore changes to the layout near to Broomshaw Road are proposed to align with the approved 'full' access. This is basically a wider road (by 0.6m) flanked by pavements; setting plots 59-64 and their frontages 1m further back with marginally smaller rear gardens; and the road linking to Broomshaw Road without the provision of bollards.

A comparison of the approved and proposed plans is shown below.

Approved Layout



Proposed Layout



2.07 The second change is to condition 8 which secures the emergency access.

2.08 Condition 8 states:

No development above slab level shall take place until details of the bollards or measures to prevent use of the emergency access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists have been submitted to and approved in writing by the Local Planning Authority. The

approved measures shall be installed prior to any occupation of the development and thereafter retained, and this access shall not be open to general vehicular traffic.

Reason: This access has been assessed and approved on the basis of only being used for these purposes.

- 2.09 The applicant is seeking changes to this condition to allow for 'full access' but only after obligations relating to the permission for 181 dwellings to the west have been met. Under this permission which allowed 'full access', the legal agreement requires the use of reasonable endeavours to secure a Traffic Regulation Order for a 20mph speed limit between Broomshaw Road and Hermitage Lane before commencement of development. The applicant is not proposing to use the access for all traffic until this obligation has been met. So, they would retain bollards until this time and the applicant's proposed wording for condition 8 is as follows:

"Timber bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to that access being brought into use. Thereafter they shall be maintained until the obligations regarding pursuing a Traffic Regulation Order, as set out in the S106 accompanying permitted application 20/501773/FULL or any subsequent amendment to that permitted application have been satisfied. Once those obligations have been satisfied the wooden bollards are to be removed."

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP2, SP23, H1, H1(3), H1(4), DM1, DM21
- Kent Waste and Minerals Plan (amended 2020)
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

4.0 LOCAL REPRESENTATIONS

- 4.01 **Barming Parish Council: Strongly object** for the following (summarised) reasons:

- Significant departure from the approved plans and should be a standalone application.
- Will become a main thoroughfare and serve as a shortcut to the detriment of local amenity and highway safety.
- Will cut across a very well used PROW raising pedestrian safety issues.
- Broomshaw Road, Redewood Road, North Street, North Pole Road and Beverley Road are not suitable to accommodate two-way traffic flow.
- Will create a rat run.

- 4.02 **'Give Peas a Chance' residents group: Strongly object** for the following (summarised) reasons:

- Only emergency access is allowed under policy H1(3).
- Increased construction traffic through residential areas.
- TRO has never appeared in any previous applications or conditions.

- Broomshaw Road and Redewood road are not suitable for traffic.
- If approved, it should only be opened when 20/501773 (181 dwellings) is complete.

4.03 Local Residents: 36 representations received raising the following (summarised) points:

- Access should not be opened until Pea Field (181 dwellings) is completed.
- Broomshaw Road and Redewood road are not suitable for the traffic, including construction traffic, and were not designed for this purpose.
- There is no requirement for the access under policy H1(3).
- Highway safety.
- Rat running will occur.
- Harm to amenity from additional traffic.
- Should only be emergency access.
- Increased pollution.
- Increased noise.
- Sinkholes.
- Strain on infrastructure.
- Sight lines are not shown.
- Bollards should be in place already so applicant is in breach.
- If approved, it should only be opened when 20/501773 (181 dwellings) is complete.
- Should be weight restriction on Broomshaw Road.
- The TRO does not relate to this application site.
- How will timber bollards allow emergency vehicles through.
- Disagree with KCC Highways comments.

4.04 Borough Councillor Gooch: Strongly objects for the following reasons and request consideration by the Planning Committee:

"I formally request that this proposal is called in for consideration by the Members of the Planning Committee because of the weight of opposition from local residents and because I fully support and agree with the comprehensive objections from Barming Parish Council.

The proposed amendment - which is effectively to open up the emergency access to through traffic - would be so significant, and its impact on new and particularly existing communities, would be so great, that it warrants a separate planning application.

It is totally out of keeping with the concept, design and spirit of the Oakapple Place development, and is too late in its build out for such a fundamental change. Crucially, the intended Fountain Lane/Tonbridge Road junction improvements are nowhere near becoming a reality due to, among other hurdles, lack of funding. Therefore, the pressure and the likelihood to rat run between Fullingpits Avenue, Broomshaw Road, Tonbridge Road to escape the relentless traffic congestion on Hermitage Lane would very soon become a reality. I urge that this application is refused."

5.0 CONSULTATIONS

5.01 KCC Highways: No objections.

"As highlighted in Kent County Council (KCC) Highway's responses to MBC reference 20/501773/FUL the provision of a secondary all purpose vehicular access is acceptable, given the substantive scale of development that would otherwise be served by a singular point of access onto Hermitage Lane. Provision of a secondary access is considered necessary for network resilience, as well as emergency access reasons.

The provision of a secondary access is also consistent with the requirements of policy H1 (4) of the adopted Local Plan, as well as the Kent Design Guide (KDG), which requires all developments in excess of 300 dwellings to be served by 2 all purpose vehicular accesses.

It is explained within the applicant's covering letter that consistent with the proposals submitted as part of the most recent planning application the previously proposed emergency access will be amended to accommodate the 2-way flow of traffic. Appropriate pedestrian connections and crossing points, in the form of dropped kerb crossing points, are to be provided. These arrangements are considered suitable for the development's likely operational demands, in the context of the larger development that it will now serve.

Whilst KCC Highways acknowledge how the proposed amendments will change the function of Broomshaw Road, from a cul-de-sac to a through road, given the proposals compliance with planning policy, as well as technical design standards, there are no sound or sustainable grounds that KCC Highways could object to the principle of Broomshaw Road being used as a route of access to the development."

6.0 APPRAISAL

- 6.01 Planning permission has already been granted for the development and this application proposes to make changes to conditions 1 and 8. In line with section 73 of the Town and Country Planning Act 1990, the local planning authority can only consider the consequences of the proposed changes to the condition and cannot re-visit the principle of the development or any other matters relating to the permission.

Design Considerations for Site Layout Changes

- 6.02 The proposed changes are minimal with the main difference being a slightly wider road with pavements either side. The road would be widened from 4.7m to 5.3m with the houses set back by around 1m on both sides of the road.
- 6.03 Front gardens would still be provided as would the space for landscaping on the corners of the junction with 'Street 3' to the north. For these reasons the changes to the layout are acceptable and in accordance with policy DM1.
- 6.04 The rear gardens would be marginally smaller but would still be of sufficient size, and a reduction of the separation distance from the rear of plots 59-61 to the east by 1m would still be acceptable and not result in any harmful impacts in terms of privacy or outlook in accordance with policy DM1.

Highways Considerations

- 6.05 As already stated, use of Broomshaw Road as a secondary access for all traffic has been approved in connection with application 20/501773 to the west. In approving this, MBC and the Highways Authority decided that the use of Broomshaw Road by a total of 511 dwellings within MBC (and a potential additional 118 in TMBC) was acceptable in terms of highway safety and traffic impacts, and also because it is a requirement of policy H1(4). As such, there is no objection to the applicant aligning the older permission with the more recent approval from a highway safety or traffic impact point of view. KCC Highways also take this stance and raise no objections.
- 6.06 As stated at paragraph 2.09 the approval of the 'full' access under application 20/501773 is subject to the applicant using reasonable endeavours to secure a Traffic Regulation Order (TRO) for a 20mph speed limit between Broomshaw Road and Hermitage Lane before commencement of development under the legal agreement. The legal agreement requires the following:
- Prior to commencement of development apply to KCC for the TRO; and
 - Use reasonable endeavours to secure the TRO and engage with KCC to provide any necessary information to assist in its progression.
- 6.07 Therefore it would only be appropriate for the full access to be 'open' once these requirements have been met and the TRO is implemented (if successful). Condition 8 should be varied as follows to reflect this:

Bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to the access being open for this use. Thereafter, the bollards shall only be removed once the obligations regarding pursuing a Traffic Regulation Order, as set out at Schedule 3, Part 6 of the Section 106 Agreement accompanying permitted application 20/501773/FULL (or any formal amendment to that permitted application) have been satisfied, and either the Traffic Regulation Order has been successful and implemented, or has failed.

Representations

- 6.08 Representations in general relate to traffic congestion, highway safety, and impacts upon amenity relating to the secondary access. These matters were all fully considered under application 20/501773 where permission for 'full' access was approved and no objections have been raised once more by KCC Highways.
- 6.09 Concern has been raised regarding construction traffic using the Broomshaw Road entrance from approved application 20/501773 to the west but that permission/development is not under consideration. A construction management plan was not required in connection with that permission, and it is not possible to retrospectively require one or control that development through this application as they are separate permissions/sites. However, the

applicant has confirmed that Broomshaw Road will not be used for construction traffic.

- 6.10 Some representations consider that if the application is approved, the access should only be opened when permission 20/501773 for 181 dwellings is complete. Under this permission there is no trigger point for allowing the access to open as there is no sound reason to do this/delay its opening. The access was judged to be suitable so it is therefore acceptable for it to be open as soon as possible for new residents to use subject to the TRO process having been complied with under the s106. Moreover, it is not possible to retrospectively control that development through this application as they are separate permissions/sites.

7.0 CONCLUSION

- 7.01 For the above reasons it is considered acceptable to change the approved plans condition 1 in respect of the layout adjacent to Broomshaw Road and to amend condition 8 to allow the full access to open following the TRO process being complied with under permission 20/501773/FULL.

- 7.02 The new conditions would read as follows:

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

Drawings listed in the 'Drawing Schedule' dated March 2022

Reason: To clarify which plans have been approved.

Bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to the access being open for this use. Thereafter, the bollards shall only be removed once the obligations regarding pursuing a Traffic Regulation Order, as set out at Schedule 3, Part 6 of the Section 106 Agreement accompanying permitted application 20/501773/FULL (or any formal amendment to that permitted application) have been satisfied, and either the Traffic Regulation Order has been successful and implemented, or has failed.

Reason: To ensure the traffic regulation order process is exhausted prior to implementing the access.

- 7.03 An approval will create a new planning permission and so all conditions must be re-attached. These are set out below where some refer to details already approved.

8.0 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Conditions:

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

Drawings listed in the 'Drawing Schedule' dated March 2022

Reason: To clarify which plans have been approved.

2. The development shall be carried out in accordance with the ragstone details approved under application 19/504466/SUB.

Reason: To ensure a high quality design.

3. The development shall be carried out in accordance with the external details (meter cupboards, vents, or flues) approved under application 19/504466/SUB.

Reason: To secure a high standard of design.

4. The development shall be carried out in accordance with the electric vehicle charging points approved under application 19/504466/SUB and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

5. The development shall be carried out in accordance with the solar PV panels approved under application 19/504466/SUB and shall thereafter be retained for that purpose.

Reason: In the interests of sustainable development.

6. The development shall be carried out in accordance with the wildlife fencing gaps approved under application 19/504466/SUB which shall thereafter be retained.

Reason: In the interests of biodiversity.

7. Bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to the access being open for this use. Thereafter, the bollards shall only be removed once the obligations regarding pursuing a Traffic Regulation Order, as set out at Schedule 3, Part 6 of the Section 106 Agreement accompanying permitted application 20/501773/FULL (or any formal amendment to that permitted application) have been satisfied, and either the Traffic Regulation Order has been successful and implemented, or has failed.

Reason: To ensure the traffic regulation order process is exhausted prior to implementing the access.

8. The children's play area shall be carried out in accordance with drawing no. 102 RevD (Play Strategy) approved under application 18/506068/REM and fully implemented prior to the occupation of the 80th housing unit and maintained thereafter unless the local planning authority gives written consent to any variation.

Reason: To ensure satisfactory public open space.

9. The approved landscaping scheme shall be carried out before or during the first planting season (October to February) following occupation of the development to which it relates. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

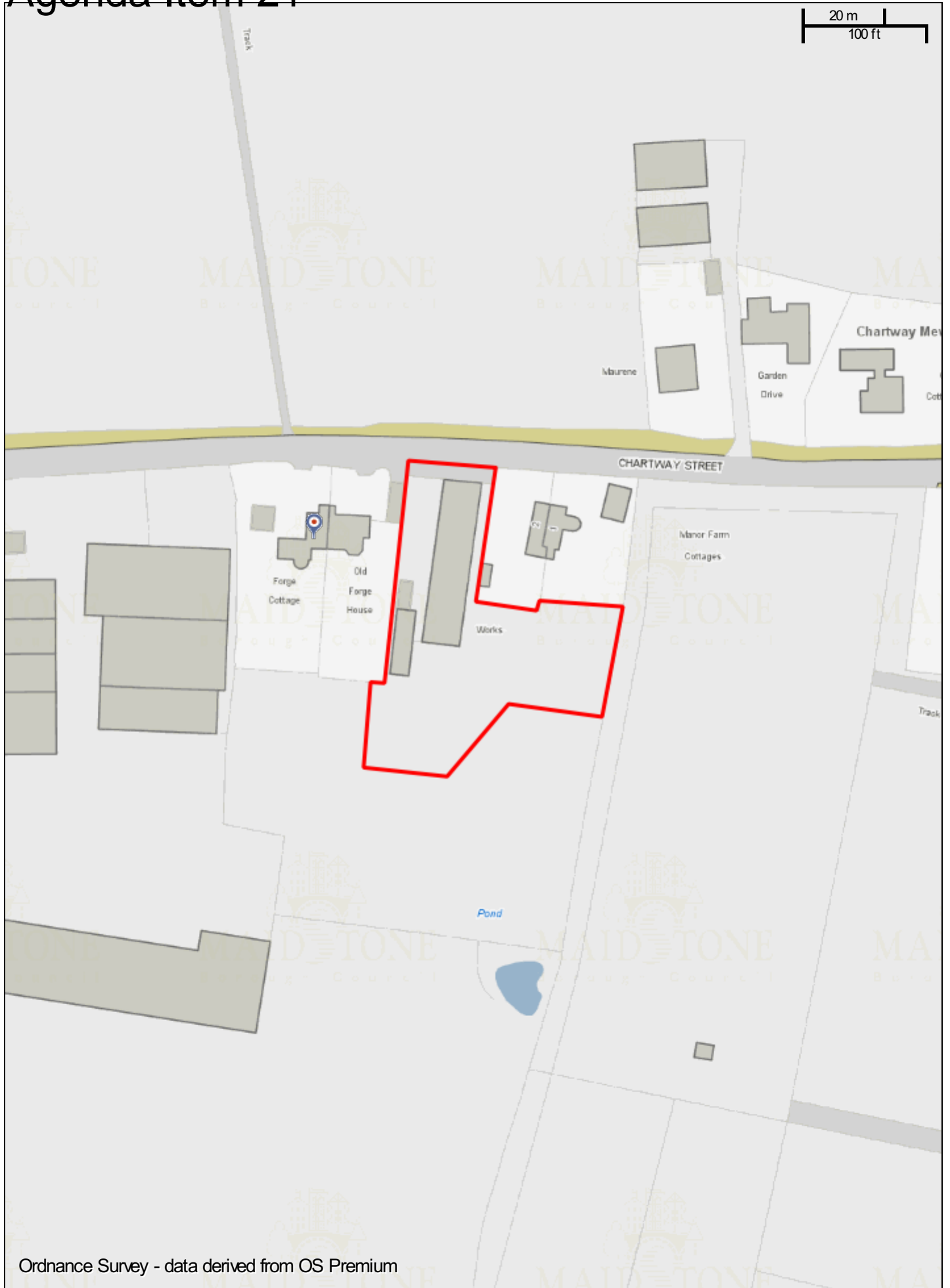
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

10. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

Case Officer: Richard Timms

Agenda Item 21



Ordnance Survey - data derived from OS Premium

REPORT SUMMARY

REFERENCE NO - 21/503150/FULL		
APPLICATION PROPOSAL Demolition of existing buildings and erection of 3no. houses with associated amenity space, landscaping and access.		
ADDRESS The Old Forge Chartway Street East Sutton Maidstone Kent ME17 3DW		
RECOMMENDATION : REFUSE for the reasons set out in Section 8.0		
SUMMARY OF REASONS FOR REFUSAL <p>The principle of this development proposal is unacceptable due to its unsustainable location and in relation to the council record of housing delivery and the 5 year land supply there is no requirement for new housing in unsustainable locations and there has not been demonstrated that there would be any overriding environmental improvement to warrant the redevelopment of the site and further encroachment into open fields.</p> <p>The new dwellings would introduce inappropriate development into the area with a substantial increase in residential built forms on the open field behind the commercial building. The development would be visible from the wider vantage point created at the junction with Chartway Street due to the removal of the commercial property and would also be visible on public right of way KH531.</p> <p>The application fails to demonstrate that there would not be an impact on protected species whereby the submitted ecological information is historic and does not provide an assessment based on the current characteristics of the site. For these reasons, the application should be refused.</p>		
REASON FOR REFERRAL TO COMMITTEE East Sutton and Broomfield and Kingswood Parish Council have recommended the application for refusal and although the recommendation is not contrary to their recommendation both Parish Councils have requested the application be considered at Planning Committee irrespective of the recommendation.		
WARD Headcorn	PARISH/TOWN COUNCIL East Sutton	APPLICANT Kent Forklifts Ltd AGENT DHA Planning
DECISION DUE DATE 25/08/21 (EOT agreed until 1/4/22)	PUBLICITY EXPIRY DATE 01/11/21	OFFICER SITE VISIT DATE 7/7/21
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): 16/500037/FULL : Demolition of existing buildings and erection of 6 No dwellinghouses, amenity space, landscaping and access. Refused 16.06.2016 for the following reasons: 1. Unsustainable form of housing development in the countryside 2. The size, design, siting and suburban and inward-looking layout, would materially depart from the more spacious and widely separated character of nearby development, out of character with this rural location as a consequence. In addition it is an unacceptable consolidation of existing sporadic development in the locality and an encroachment into adjoining open countryside. 18/500265/FULL : Demolition of existing buildings and erection of 7no. dwellings with		

associated amenity space, landscaping and access.

Refused 31.05.2018 for the following reasons:

1. Unsustainable form of housing development in the countryside.
2. The size, design, siting and suburban and inward-looking layout, would materially depart from the more spacious and widely separated character of nearby development, out of character with this rural location as a consequence. In addition it is an unacceptable consolidation of existing sporadic development in the locality and an encroachment into adjoining open countryside
3. The close proximity of plot 5 with plot 4 would result in an awkward and overbearing relationship detrimental to the amenities of future occupiers
4. The application has failed to demonstrate (including the absence of adequate detail with regard to visibility splays) that the development will not result in harm to highway safety and that the proposal will provide an adequate standard of access
5. The application has failed to demonstrate (including the absence of adequate detail with regard to acoustic mitigation that the development will provide an adequate standard of residential accommodation.

18/504803/FULL : Demolition of existing buildings and erection of 7no. dwellings with associated amenity space, landscaping and access.

Refused 8/4/2019 for the following reasons :

1. Unsustainable form of housing development in the countryside
2. The size, design, siting and suburban and inward-looking layout, would materially depart from the more spacious and widely separated character of nearby development, out of character with this rural location as a consequence. In addition it is an unacceptable consolidation of existing sporadic development in the locality and an encroachment into adjoining open countryside
3. The close proximity of plot 5 with plot 4 would result in an awkward and overbearing relationship detrimental to the amenities of future occupiers
4. The application has failed to demonstrate (including the absence of adequate detail with regard to visibility splays) that the development will not result in harm to highway safety and that the proposal will provide an adequate standard of access

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site is in the countryside, outside the urban area of Maidstone, outside the local plan designated Rural Service Centres and the Larger Villages. The site is not subject to any specific landscape designation.
- 1.02 The application site can be divided into 2 clearly distinct areas. The front part of the site comprises a workshop building that extends just over 40 metres back from the road frontage. This building is currently occupied by a food distribution company which I believe employs 2 people. Previously the commercial units on the site have been occupied by a horticultural bulb sales company. The site is accessed off Chartway Street to the west of this building where associated parking and turning areas are also located.

- 1.03 The second much larger area to the south and rear of the site comprises an open field (agricultural land classification of Grade 2) that is enclosed on its east and southern boundaries by hedgerows. This land is currently vacant.
- 1.04 The application site is located on the south side of Chartway Street just over 220 metres from the junction with Charlton Lane to the west, and over 150 metres from the junction with Morry Lane to the east. To the west of the application site is Old Forge House. The substantial buildings and open storage area that form part of the agricultural distribution operations at Street Farm abut and wrap around the western site boundary. To the east of the site are a pair of detached cottages known as 1 and 2 Manor Farm Cottages.

2.0 PROPOSAL

- 2.01 The proposal is for the demolition of existing buildings and erection of 3no. houses with associated amenity space, landscaping and access.
- 2.02 The existing buildings are single storey and are principally situated in the northern part of the site along the eastern and western boundaries. Those to the west of the site are more 'ramshackled' and informal in appearance, with the larger building along the eastern boundary having a pitched roof and a brick built and corrugated roof finish. These buildings would be demolished in favour of the proposed development.
- 2.03 The proposal would result in the development of a T-shaped part of the wider application site, which would result in the provision of 3 detached dwellings and associated curtilages, a detached car barn/store, vehicular access, turning and parking area.
- 2.04 Plot 1 would front Chartway Street and infill between existing linear development along this part of Chartway Street. It would be 2-storeys and have a width of approximately 9m, maximum depth of 9.8m, with an eaves height of 5.2m and a ridge height of 9.2m
- Plot 1 would have an associated car barn which would be detached from the dwelling and its curtilage. This would have a maximum width of 9m, a depth of 7.5m, with a steeply pitched roof with varying pitches, with an overall height of approximately 6.2m.
- 2.05 Plot 2 would be situated to the south/rear of 1 & 2 Manor Farm Cottages. It would be orientated east to west, with an approximate width of 13m, depth of 12.5m. It would have varying roof forms with an eaves height of 5.2m and a ridge height of 10.9m. It would be 4 bedroomed with an integral garage.
- 2.06 Plot 3 would be situated along the western boundary with Old Forge House, this would be orientated principally north to south, with other secondary openings east to west. The dwelling would be L-shaped with a maximum width of approximately 13.7m, depth of 20.5m. Roof pitches would be varied with some cat-slides and first floor accommodation served by dormers. The maximum eaves height would be 5m and a maximum ridge height of 10m.
- 2.07 The plan below indicates the proposed layout :



2.08 In comparison, the below is the site layout of the most recent refusals for the site, the principle differences to the refused schemes are the number of units proposed (7 reduced to 3) and the extent of encroachment into the agricultural land to the south of the site.



3.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017: SS1, SP17, SP21, DM1, DM2, DM4, DM5, DM12, DM23 and DM30
Supplementary Planning Documents: Maidstone Landscape Character Guidance 2012

4.0 LOCAL REPRESENTATIONS

9 letters of representation were received from 5 households following the initial consultation and 2 further letters on representation were received from a single household following the submission of additional information (a target re-consultation was carried out solely to the Ecology and Highways Officer on the additional information submitted)

In summary the following matters were raised :

- Site has been seeking consent for residential redevelopment since the 1980s
- Start of future development on the site, precedent for further units
- Highways implications
- Loss of property value
- Unsustainable location (reliance on private car)
- Out of character proposed materials (use of white weatherboarding)
- Lack of services and infrastructure
- Current use contributes to the local economy
- Loss of outlook
- Out of date ecological information/impact on ecology
- Overlooking/loss of privacy
- Works proposed on land outside ownership of applicant (works to wall)
- Transport assessment not reflective of current use
- No suitable fence to be provided along the western boundary.

5.0 CONSULTATIONS

- 5.01 Broomfield and Kingswood Parish Council : After consideration Councillors have not changed their decision and still object to this application as per previous applications.

Comments on 18/504803/FULL

Councillors wish to see this application **REFUSED** and require the application to go before the planning committee.

The previous application 18/500265/FULL was refused by Councillors for the following reasons: The development is outside settlement boundaries and encroaches into adjoining open countryside, there is a potential harm to the character and appearance of the area most especially due to its proximity to the Greensand Ridge. Contrary to Policy SP17, Local Plan 2017.

The proposal must be considered unsustainable as it would rely solely on car use for access to services.

The development proposal is close to a particularly hazardous blind bend in Chartway Street where vehicles and oversized agricultural vehicles particularly, emerge from the bend in the middle of the road at the point of site access. This part of the road has a national speed limit of 60mph.

Councillors felt that this is a resubmission of the previous application with no changes and the above reasons for refusing the application are therefore still valid. In addition whilst the Forge Works itself is on brown field land, the land behind the Forge Works is agricultural land. Chartway Street is also a street of linear development which this development would not be.

5.02 East Sutton Parish Council

1. The site is unsustainable for housing on account of lack of safe public footpaths from the site to the villages of Kingswood and Sutton Valence. The frequency of the bus service along Chartway St would mean future residents being totally reliant on cars.
2. The parish considers that the site proposes housing on agricultural land which is undesirable.
3. The site occupies a prominent position on the greensand ridge which would be detrimental to the amenity value of this local feature.
4. The site would see the loss of employment in the parish. The site is currently in use as a distribution depot for imported foods.
5. The visibility splay is not achievable. The wall to the west which is shown to be lowered is not in the ownership of the site .
6. The details of the layout do not provide for boundary maintenance with existing properties.

In summary, East Sutton Parish council wish to see the application refused. The Parish council is prepared to go to committee to support this view.

5.03 KCC Archaeological Officer : The site of the proposed development lies adjacent to a “smithy” identifiable on the 1st Ed OS map. Remains associated with post medieval activity may survive on the site and I recommend a condition should the application be approved.

5.04 Environment Agency : The industrial/commercial use of these buildings/land pose a high risk of contamination which could impact on the proposed development or cause it to impact on the environment. Controlled waters are sensitive in this location because the proposed development site is located upon Principal aquifer. An assessment into the past uses of buildings/land and any potential risks arising from the buildings/grounds for the proposed end use and wider environment should be carried out prior to the development works proposed. In particular investigations should take account of any oil/fuel storage tanks, septic tanks, drainage systems, and materials storage. Any identified risks should be fully evaluated, if necessary by intrusive investigations, and appropriately addressed prior to the commencement of the development.

Further detailed information will however be required before built development is undertaken.

Details could be conditioned should the application be approved.

5.05 KCC Biodiversity Officer :

The same ecological survey was submitted for this application and planning applications 16/500037 and 18/500265/FULL. As the survey is now 6 years old we have concerns that the survey data is no longer valid.

Current photos of the site have been provided and they highlight that there are areas of the site which have been left unmanaged (the grassland is no longer mown short and there are areas of scrub next to the buildings) and therefore the potential for protected/notable species can not be ruled out.

As such, a preliminary ecological appraisal (PEA) must be undertaken by a suitably qualified ecologist, in accordance with good practice guidelines - the PEA will assess the habitats and features within and around the site and identify if there is a need for further ecological surveys to assess ecological value and/or confirm protected species presence/likely absence.

To ensure that the planning determination is adequately informed in respect of all potential ecological impacts, we advise that the PEA report, OR, if further surveys are required, an Ecological Impact Assessment (EclA) report, detailing all surveys and outcomes, must be sought as part of the planning application. This is in accordance with paragraph 99 of ODPM 06/2005 which states: *"it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*. An EclA is a process of identifying, quantifying and evaluating the potential effects of development on habitats, species and ecosystems, so providing all ecological survey information alongside any necessary avoidance, mitigation and compensation proposals within one document.

One of the principles of the National Planning Policy Framework is that *"opportunities to improve biodiversity in and around developments should be integrated as part of their design"*. The site plan has confirmed that native species fencing will be planted within the site but in addition to that we recommend that ecological enhancement features (over and above any mitigation required) are incorporated into the site and hedgehog highways are incorporated into any close board fencing.

5.06 KCC Highways (following re-consultations after additional information was submitted):

As requested in this authority's initial consultation response the applicant has completed a net impact assessment, to determine the anticipated change in traffic movements because of the development.

To forecast the amount of traffic that could be generated by the sites extant (*lawful*) and proposed use, the applicant has used trip generation forecasts from a previous planning application associated with the site Maidstone Borough Council (*MBC*) reference: 16/500037/FULL. This is acceptable given how these forecasts were

considered a suitable basis for assessment by Kent County Council (KCC) Highways in the previous application.

Importantly, the results of this assessment confirm that the proposed development will generate less traffic than the site's extant use. Consequently, it is not considered that the impact of development could be considered as 'severe,' in capacity or safety terms, given the anticipated net reduction in traffic movements.

Confirmation that the eastern footway will be provided with a flush kerb, thereby allowing a consistent carriageway width of 4.8 meters, inclusive of overunable areas, has been provided.

This arrangement is considered acceptable in this instance given the non-strategic and relatively lightly trafficked nature of the C83, Chartway Street.

Detailed personal injury collision analysis for the most recently available 3-year period has also been undertaken by the applicant. This analysis confirms that during the period in question 2 collisions have been recorded, one of these was serious in severity. Both these collisions occurred east of the existing site access. However, neither of the collisions are associated with the existing access; it is therefore not considered that the development will exacerbate any existing highway safety issues.

Finally, amendments have also been made to the site layout to achieve full compliance with IGN3 thereby addressing this authority's previous comments.

No objection raised subject to a number of conditions.

6.0 APPRAISAL

- 6.01 The key issues for consideration relate to:
- Principle and sustainability
 - Impact on the character of the surrounding countryside
 - Design and layout of the proposed properties.
 - Impact on outlook and amenity of properties overlooking and abutting the site
 - Trees and landscape
 - Ecology
 - Archaeology
 - Highways and parking considerations.

Principle and sustainability

- 6.02 Adopted Local Plan policy SS1 relates to the provision of the Borough's housing supply. It demonstrates that local housing targets can be met by using land within the existing settlements and on sites with the least constraints on the edge of settlements. It describes the most sustainable locations for the provision for new housing in a sustainability hierarchy with the urban area of Maidstone at the top of this hierarchy followed by the Rural Service Centres as the secondary focus. Larger villages are the third and final location as they may provide a limited supply of housing providing it is proportional to the scale and role of the villages. This application, does not meet these siting preferences and as such, the proposal represents unsustainable development in the countryside.
- 6.03 The council can demonstrate a future five year housing land supply in sustainable locations in order to meet the housing land supply.

- 6.04 The applicant argues that the application site is located within close proximity to Kingswood, which has a number of amenities for the future occupiers. It is highlighted by officers that the village is some 700 metres from the application site. Given this distance and the unsatisfactory access by way of narrow, unlit country roads without pavements it is highly unlikely residents of the proposed development would walk or cycle to Kingswood. In addition, it should be noted that Kingswood village does not have the level of facilities to be included in the sustainability hierarchy set out as part of adopted policy SS1.
- 6.05 The application site is not accessible to the designated rural service centres or larger villages due to inadequate facilities for pedestrians and inadequate public transport. In conclusion, future residents would be reliant on the private car for 'day to day' basic needs. Policy SS1 sets out that development should be located in sustainable locations, and this proposal does not comply with this requirement.
- 6.06 Policy DM5 relates to development on brownfield land. The policy states that where a site is not of high environmental value and where residential density is acceptable redevelopment of brownfield sites will be permitted in certain circumstances. These circumstances include where the proposal would result in significant environmental improvement and the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.' To assist in the interpretation of policy DM5, the supporting text in the Local Plan (paragraph 6.37) sets out six 'key' considerations to be used in assessing the redevelopment of brownfield sites in the countryside. These considerations are as follows:
- The level of harm to the character and appearance of an area.
 - The impact of proposals on the landscape and environment.
 - Any positive impacts on residential amenity.
 - What sustainable travel modes are available or could reasonably be provided.
 - What traffic the present or past use has generated; and
 - The number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.
- 6.07 The site is located 2 km from Sutton Valence (a larger village), 4 km from Harrietsham (a Rural service Centre) and 5km from Headcorn (a Rural Service centre). As set out above the application site is not in a sustainable location and with the distances involved the site cannot be made accessible to Maidstone urban area, a rural service centre or larger village. With no significant environmental improvement and the location of the site the proposal is contrary to adopted policy DM5.
- 6.08 In conclusion, the development proposal would be in an unsustainable location and would be contrary to policies SS1, and DM5 of the Maidstone Local Plan and the provisions of the NPPF.

Loss of commercial floorspace

- 6.09 Local Plan policy SP21 states that the council will prioritise the commercial re-use of existing rural buildings in the countryside over conversion to residential use in accordance with policy DM31. Whilst the proposed development would result in the demolition of a building providing 496 square metres of B8 (storage and distribution) commercial floorspace, policy SP21 considers the 'conversion' of commercial buildings and as a result this policy is not considered relevant.

Impact on the character of the countryside

- 6.10 Policy SP17 defines the countryside as ‘...all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages defined on the policy map.’ Development proposals in the countryside will not be permitted if they result in harm to the character and appearance of the area. Policy DM30 states that in the countryside proposals will be permitted which would create high quality design, and where 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.
- 6.11 The loss of the existing building, although not problematic in itself would open up views from Chartway street resulting in the site becoming more visible and increasing the impact of the proposed development on the character of the surrounding area. The development would be visible through the site and longer views may be gained further along the road at the junction with Morry Lane. The site would also be viewed from long vantage points on public right of way KH531.
- 6.12 As the rear of the site is currently undeveloped land in the countryside, the introduction of new dwellings in this location is inappropriate development. The siting of this development proposal, in conjunction with the number, height, bulk and massing of the two storey dwellings mainly to the rear of the site, and with large carports further adding to the building mass, would result in an urbanising effect that would be detrimental to the openness and rural character of the area. The proposed development is out of character with the locality and would have an adverse impact on the countryside contrary to policies SP17 and DM30.
- 6.13 Although it is noted that the quantum of dwellings proposed has been reduced since the earlier refusal and as highlighted above the encroachment into greenfield land would be less, this encroachment would be a sporadic form of urbanisation into a linear form of residential development along the immediate part of the Chartway Street. The two dwellings proposed to the rear of the site would be large, detached dwellings and the need for a large turning area, driveway and car ports all further adds to the urbanisation of what is currently an undeveloped field to the rear of the low-level modest commercial building.

Design and layout of the proposed properties

- 6.14 The proposed development would comprise 3 large detached dwellings. The designs would provide a good general layout and good access into and through the site. The properties will be provided with an adequate area of private rear garden.
- 6.15 The layout shows an informal inward looking cul de sac which is considered to meet the Councils normal block spacing, privacy and amenity space standards. While the layout is acceptable in its own right, the resultant suburban appearance and layout differs substantially from the sporadic character of nearby development and the linear form of dwellings along this part of Chartway Street. The development would appear incongruous and out of character in this rural location as a consequence.

Standard of proposed accommodation

- 6.16 Policy DM1 supports development which provides adequate residential amenities for future occupiers of the development including in relation to excessive noise, activity or vehicular movements, overlooking or visual intrusion.
- 6.17 The most recent refusal including a reason for refusal which read :

The application fails to demonstrate that the development would provide an adequate standard of residential accommodation for future occupiers in relation to outlook, privacy and including potential noise nuisance from nearby commercial uses and associated traffic contrary to policy DM1 (Principles of good design) of the Maidstone Borough Local Plan 2017 and the NPPF.

- 6.18 The site is close to a busy road and adjacent to what appears to be a working farm operating HGV deliveries in the yard relating to the distribution of goods. Environmental Services have previously commented that despite these potential sources of nuisance no assessment of noise from the yard or the road has been submitted with the application. This current application contains no further information in this respect and has not sought to overcome this earlier reason for refusal. The absence of this noise assessment still remains a cause for concern as the application has failed to demonstrate that the proposed residential accommodation will provide an adequate standard of accommodation for future occupiers.
- 6.19 However the number of units has been reduced and the units would not extend as rearwards into the site as previously and it is considered that there would be mitigation measures that could overcome the harm and although it would be beneficial to have the information in advance, on balance should the application be acceptable in all other respects there are likely to be methods in construction (such as triple glazed windows or mechanical extraction) which would overcome the noise of the neighbouring working farm. These could be dealt with by condition requesting a noise report and mitigation measures.
- 6.20 The relationship of the dwellings to each other now overcomes previous concerns regarding the future amenity of the dwellings. This is due to the reduction in numbers and the proposed layout.
- 6.21 The application is accompanied by the same Environmental reports previously provided. Environmental Services have previously commented that due to the previous commercial use of the site there is potential for land contamination to have occurred. In the event that the application is acceptable in all other aspects, a contamination condition should be added.

Impact on neighbours outlook and amenity

- 6.22 Policy DM1 supports development which respects the amenities of occupiers of neighbouring properties by ensuring that development does not result in overlooking or visual intrusion.
- 6.22.1 Nos 1 and 2 Manor Farm Cottages are located to the northeast of the application site. Plot 2 would be to the south of those properties and Plot 1 to the east. There is considered to be sufficient separation between the properties such that no significant harm would result to neighbouring residential amenity by reason of being overbearing, causing loss of light or outlook, being overshadowing or causing a loss of privacy and overlooking.
- 6.24 The Old Forge House is to the west of the application site and it is Plot 3 that would likely to give rise to the greater impact. However although there are proposed openings facing towards the rear garden of The Old Forge House, these all serve

bathrooms/en-suites or are secondary windows and therefore all windows in the facing elevation could be obscure glazed should the application be considered acceptable in all other respects. There is a degree of separation from the neighbouring boundary and it is not considered this or the other proposed dwellings would give significant rise to harm to neighbouring amenity.

Trees and landscape

- 6.25 The proposed layout is considered acceptable from an arboricultural perspective. An informative should be added to any recommendation for approval that a High Hedge remedial order is in place on the northern boundary of the site.
- 6.26 The indicative landscape shown on the site layout plan is considered reasonable in terms of its use of native species, and the introduction of orchard planting is welcomed. In the event that approval is given more detailed landscape plans together with suitable long-term management proposals should be submitted by way of conditions.

Biodiversity

- 6.27 The same ecological survey was submitted for this application and planning applications 16/500037 and 18/500265/FULL. As the survey is now 6 years old we have concerns that the survey data is no longer valid.
- 6.28 Current photos of the site have been provided and they highlight that there are areas of the site which have been left unmanaged (the grassland is no longer mown short and there are areas of scrub next to the buildings) and therefore the potential for protected/notable species can not be ruled out.
- 6.29 As such, a preliminary ecological appraisal (PEA) must be undertaken by a suitably qualified ecologist, in accordance with good practice guidelines - the PEA will assess the habitats and features within and around the site and identify if there is a need for further ecological surveys to assess ecological value and/or confirm protected species presence/likely absence.
- 6.30 In the absence of this up-to-date information the application cannot be adequately assessed in terms of the impact on protected species.

Archaeology

- 6.31 The site is located within an area of archaeological potential and is adjacent to a smithy which was present in both the 19th and 20th centuries. Should the application be approved a watching brief condition should be attached.

Highways

- 6.32 The most recent refusal included the following ground :

The application has failed to demonstrate (including the absence of adequate information on visibility splays and traffic generation) that the development will not result in harm to highway safety and that the proposal will provide an adequate standard of access contrary policy DM1 of the Maidstone Borough Local Plan 2017 and the NPPF.

- 6.33 The agent was given the opportunity to provide further information in this respect during the course of the application following Kent Highways raising the same issues. This information was provided and Kent Highways are satisfied that no harm would result subject to conditions.

Other Matters

- 6.34 The agent has given two examples of what he considers to be two similar sites, both of which were allowed on appeal.
- 6.35 Wind Chimes, Chartway Street referenced 15/507493/OUT (outline planning for 9 houses) was allowed on appeal on 9th December 2016, as a five year land supply could not be demonstrated at the time of the appeal hearing. The Inspector also found that the site was reasonably accessible to Sutton Valence on foot and with bus services to Maidstone.
- 6.36 The Oaks, Maidstone Road, referenced 14/0830 (for the construction of 10 houses) was allowed on appeal on 13th April 2015, as the Inspector found that the site was reasonably accessible to Sutton Valence on foot and with bus services to Maidstone.
- 6.37 Both of the sites in question are within close proximity to a pavement, as well as being closer to Maidstone Urban Area. In addition, the Council can now demonstrate a five year land supply. Finally, the adopted Maidstone Local Plan and revised NPPF both encourage sustainable development with an emphasis on good design that responds positively to its local, natural setting and, where possible, enhances the character of the area. For these reasons, the two examples that have been given are not considered relevant to this current application.
- 6.38 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. 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.

7.0 Conclusion

- 7.01 The principle of this development proposal is unacceptable due to its unsustainable location and in relation to the council record of housing delivery and the 5 year land supply there is no requirement for new housing in unsustainable locations and there has not been demonstrated that there would be any overriding environmental improvement to warrant the redevelopment of the site and further encroachment into open fields.
- 7.02 The new dwellings would introduce inappropriate development into the area with a substantial increase in residential built forms on the open field behind the commercial building. The development would be visible from the wider vantage point created at the junction with Chartway Street due to the removal of the commercial property and would also be visible on public right of way KH531.
- 7.03 The application fails to demonstrate that there would not be an impact on protected species whereby the submitted ecological information is historic and does not provide an assessment based on the current characteristics of the site. For these reasons, the application should be refused.

8.0 RECOMMENDATION –REFUSE for the following reasons:

- (1) The proposal would result in the creation of an unsustainable form of housing development in the countryside with future occupiers reliant on private vehicle use to gain access to basic services and, as such, would be contrary to policies SS1 (Spatial strategy), SP17 (Countryside) and DM5 (Development on brownfield land) of the Maidstone Borough Local Plan 2017 and the NPPF.
- (2) The proposed development by reason of the size, design and siting of houses and substantial encroachment into adjoining open countryside will result in an unacceptable consolidation of existing sporadic development in the locality with the development appearing as incongruous and detrimental to the rural character and landscape quality of the area contrary to policies SP17 (Countryside), DM1 (Principles of good design), and DM30 (Design principles in the countryside) of the Maidstone Borough Local Plan 2017 and the NPPF.
- (3) The application fails to demonstrate that there would not be an impact on protected species whereby the submitted ecological information is historic and does not provide an assessment based on the current characteristics of the site contrary to Policy DM1 (Principles of good design of the Maidstone Borough Local Plan 2017 and the NPPF.

INFORMATIVES

- (1) You are advised that as of 1st October 2018, the Maidstone Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website www.maidstone.gov.uk/CIL

Case Officer: Rachael Elliott

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



Ordnance Survey - data derived from OS Premium



21/506183/FULL Pinelodge Cottage, Somerfield Road, Maidstone, Kent

Scale: 1:1250

Printed on: 8/2/2022 at 12:40 PM by JoannaW

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REFERENCE NO - 21/506183/FULL		
APPLICATION PROPOSAL Retrospective application for the erection of a side link extension to garage, conversion of garage to gymnasium and erection of a summer house.		
ADDRESS Pinelodge Cottage Somerfield Road Maidstone Kent ME16 8JJ		
RECOMMENDATION GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION The retrospective development by reason of its design, scale and appearance is considered to be in keeping with the character of the original building and character of the area including the streetscene and would not result in significant adverse harm to neighbouring occupiers by way of a loss of light, overlooking or overshadowing or other harm which could not be mitigated by conditions. All other material planning considerations are considered acceptable and in accordance with current policy and guidance.		
REASON FOR REFERRAL TO COMMITTEE Councillor Jonathan Purlé requested that the application be considered by the Planning Committee if Officers are minded to recommend approval. This item was deferred from the February committee to allow the inclusion of the London Road Character Assessment document into the report and assessment. The recommendation and conditions remain otherwise unchanged.		
WARD Bridge	PARISH/TOWN COUNCIL Unparished	APPLICANT Mr S Yadave AGENT MCIAT
TARGET DECISION DATE EOT 25/2/22		PUBLICITY EXPIRY DATE 31/12/21

Relevant Planning History

16/502943/FULL - Change of use and conversion of existing two storey garage outbuilding into a single dwellinghouse with the insertion of dormer windows, replacement of garage door with two double doors and installation of a new window to the front and side elevations.
Approved 24 10 2016

18/502245/FULL - Erection of an Orangery, detached garage and detached garden shed.
Approved 09.07.2018

19/500902/FULL - Erection of first floor extension to form third bedroom and extension to garage to provide additional garage space. Approved 24.04.2019

20/502780/FULL - Single storey side extension to existing garage. Refused 17.09.2020

20/505343/FULL - Single storey side extension to existing garage. (Resubmission of 20/502780/FULL) Refused 31.12.2020

21/506184/FULL - Retrospective application for erection of garden fence and entrance gates.
Approved 14.01.2022

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 Pinelodge Cottage is a detached property within the urban settlement boundary of Maidstone. This property is situated within the grounds of Pinelodge. Pinelodge Cottage was converted to a separate dwelling under planning application reference: 16/502943/FULL.
- 1.02 Pinelodge Cottage is a one and half storey dwelling with dormer windows to the front elevation. The detached double garage was approved under planning application reference: 19/500902/FULL. The link extension adjoining the garage and hostdwelling has been built since at least 2020.

2. PROPOSAL

- 2.01 The applicant seeks planning permission for this retrospective development consisting of converting the garage into a gymnasium, a link extension adjoining the garage and hostdwelling and the erection of a detached summer house in the rear garden.
- 2.02 The link extension adjoining the garage to the hostdwelling has a width of 1.8m, a depth of 2.65m and a height of 2.5m. The link extension has a flat roof, a window to the rear elevation and a door to the front elevation.
- 2.03 The summer house is situated in the rear garden to the east of Pinelodge Cottage and has a depth of 3m, a width of 2.45m, an eaves height of 2.3m and a ridge height of 2.5m as the roof slopes slightly. The summerhouse has a door to the southwest elevation, two windows to the northwest elevation and a window to the northeast elevation. The summerhouse is set back from the Somerfield Road by at least 3m.
- 2.04 The garage was a double garage, and the garage has been converted into a gymnasium for the residents of Pinelodge Cottage. The garage previously had two garage doors to the front elevation and the garage conversion alterations include replacing the two garage doors with two windows and replacing the window and door to the side elevation with double doors to access the rear garden.
- 2.05 The works are retrospective with the link extension and summerhouse complete and the garage conversion has commenced.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Character Area Assessment - Supplementary Planning Document - Maidstone Local Development Framework Regulation 19 of the Town and Country Planning (Local Development) Regulations 2004 – Somerfield Road Character Area

Maidstone Borough Local Plan 2017 – DM1 – principles of good design, DM9 - Residential extensions and conversions and re-development within the built up area.

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 19) dated October 2021. : Policies Policy LPRSP15 – Principles of Good Design Policy LPRHOU 2 : Residential extensions, conversions, annexes and redevelopment in the built-up area

The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.

Supplementary Planning Documents - Maidstone Residential Extensions SPD (2009)
and SPG 4 - KCC Parking Standards (2006)

4. LOCAL REPRESENTATIONS

Local Residents:

4.01 Objection received from one neighbouring property has raised the following (summarised) objections:

- The link between house and garage now makes them read and be occupied as one larger building which has resulted in an elongated and overdeveloped street frontage
- The conversion of the adjacent house into flats has put significant pressure on parking and safety on the very narrowest point of the street and the further loss of these two garages for a gym has compounded the problem.
- The garage section is also extremely close to the road which now joined to the house further increases the perceived scale and massing
- The new garage windows are also uncomfortably close to the road, on a street that is otherwise characterised by properties set well back from the kerb to respect the scale, massing, and amenity of the street.
- The addition of the summerhouse and new hardstanding further erode the original openness of this site to a point where it now reads as one long overdeveloped elongated frontage of a very poor quality

5. CONSULTATIONS

5.01 Cllr Purle

I have read through this planning application and must say that I do not believe the application really reflects the development that has been occurring at this plot. In my view, it does not appear to pass the pertinent tests in DM9/11.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Background to the site and Principle of the development
- Impact on visual amenity
- Neighbouring residential amenity
- Car Parking and Highways
- Other matters

Background to the site and Principle of the development

6.02 As above, Pinelodge Cottage was converted into a separate dwelling under planning application reference: 16/502943/FUL, having previously been a detached garage in association with Pinelodge. A single garage and shed in the rear garden was approved under planning application reference: 18/502245/FULL. A garage extension was approved under planning application reference: 19/500902/FULL to build the second adjoining garage. The link extension which this application seeks to regularise has

been built since 2020 has not been part of a previous planning application. The summerhouse and garage conversion works are understood to have taken place during 2021.

- 6.03 The site has been subject to a number of enforcement investigations and this application, together with a recent approval for front boundary treatment seeks to regularise all the unauthorised works.
- 6.04 Planning permission is required for the link extension and the outbuilding as Condition 4 of application 16/502943/FULL removed permitted development rights for extensions and outbuildings.
- 6.05 With regard to the garage conversion, the footprint of the garage is not proposed to be extended in any way and the use of the space remains ancillary to the main dwelling (Pinelodge Cottage), and there are not any conditions restricting its use as a garage/parking. Condition 4 of 19/500902 does require that the use of the space to remain as *purposes ancillary to the domestic use of that dwelling*, however its use as a gym is considered to fulfil that requirement. As such in itself planning permission is not considered to be required for the conversion of the garage, as such its conversion is considered acceptable in principle.
- 6.06 The application site is within the defined urban boundary, Policy DM9 of the local plan allows for residential extensions provided that :
- i) The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;
 - ii) The traditional boundary treatment of an area would be retained and, where feasible, reinforced;
 - iii) The privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and
 - iv) Sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene.
- 6.07 Policy DM1 (ii) in terms of design refers to developments responding positively to the local character of the area, with regard being paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. DM1 (iv) re-iterates consideration to be paid to adjoining neighbouring amenity.
- 6.08 Regarding detached outbuildings the SPD sets out :
- ‘Garages and other outbuildings should not impact detrimentally on the space surrounding buildings. They must be smaller in scale and clearly ancillary to the property (para 4.45)*
- ‘In order to appear ancillary to the property, fit well within the street scene and prevent detrimental impact on neighbouring properties, such as excessive overshadowing of a garden or principal window, garages and outbuildings should not generally be located in front of the building line of domestic properties’ (para 4.46)*
- ‘The form (including roof pitches) and materials of garages and outbuildings should be in keeping with the existing and surrounding properties.’ (para 4.47)*
- ‘Garages and other outbuildings should be subservient in scale and position to the original dwelling and not impact detrimentally on the space surrounding buildings or the street scene by virtue of their scale, form or location. Garages or outbuildings set in front of the building line will not normally be allowed.’*

- 6.09 The principle of extensions to the property is acceptable, whereby its location within the urban area, however this is subject to consideration of the key issues set out above which are discussed below.

Impact on visual amenity and neighbouring residential amenity

- 6.10 The flat roof of the summerhouse is slightly visible from the streetscene through the existing boundary treatment. The summerhouse is timber framed and is set back from the streetscene by at least 3m and the boundary treatment consists of a wall, vegetation and a fence behind the wall and vegetation.
- 6.11 The alterations to the front elevation of the garage consist of changing the garage doors to windows. The top of the window is barely visible above the entrance gate, approved under planning application reference: 21/506184/FULL. Converting the garage is a minor and common alteration and would not negatively affect visual amenity.
- 6.12 The link extension from the garage to the hostdwelling is set back from the streetscene by at least 10m and the link extension is set back from the principal; elevation of Pinelodge Cottage by 1.75m. The link extension has a flat roof and does not dominate or overwhelm the front elevation of Pinelodge Cottage. The link extension would not negatively affect visual amenity.
- 6.13 Overall the proposed works are subservient to the existing dwelling and do not harm visual amenity of the street scene or the character of the area or result in significant overdevelopment of the site which would warrant refusal.
- 6.14 The main aspects of the Character Area Assessment SPD for Somerfield Road relevant to this development consist of development that should respect the quiet residential area, respect the informal rural character of Somerfield Road and protects landscape features. The development complies with these aspects of the Character Area Assessment SPD for Somerfield Road as the summerhouse, link extension and garage conversion are set back from the streetscene and the summerhouse in particular is screened by vegetation and the boundary treatment. The views into the site are limited and the development does not impact the existing vegetation. The garage conversion and link extension are screened by the entrance gate whilst travelling directly past the site. The development would not negatively affect the character of the Somerfield Road area.

Impact on residential amenity

- 6.15 Due to the nature of the proposals and the sites relationship with the closest neighbouring dwelling it is not considered that the proposals would negatively impact on the amenity of any neighbouring residential properties.

Car Parking and Highways

- 6.16 The double garage would become a gymnasium and there is capacity for 3 parked cars in front of Pinelodge Cottage. The parking along Somerfield Road is not restricted with yellow lines.
- 6.17 Pinelodge Cottage has two bedrooms on the first floor and Appendix B of the Local Plan, associated with Policy DM23 sets out that properties should have 1 car parking space per dwelling (for dwellings within a edge of centre location). The site retains 3 parking spaces in front of Pinelodge Cottage and as such there is considered sufficient alternative provision

- 6.18 It is not considered the loss of the double garage as parking would result in significant harm to highway safety or result in insufficient parking to serve the dwelling, notwithstanding this the garage is not restricted to be retained as use for parking.

Other matters

- 6.19 There are protected trees to the north-west of the site, however these are a significant distance from the proposed works to be unaffected and it is not believed that these trees have been affected as a result of the works that have taken place.
- 6.20 The NPPF, Local Plan and residential extensions SPD all seek to promote biodiversity enhancements, due to the nature of the site with a backdrop of protected trees and the further encroachment into the garden it is considered reasonable to require biodiversity enhancement, however due to the application being retrospective these enhancement shall be required by condition to be within the curtilage rather than integral to the extension.
- 6.21 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The link extension, garage conversion into gymnasium and summerhouse, by reason of the design, scale and appearance, the development is considered to be in keeping with the character of the original building and character of the area including the streetscene and would not result in significant adverse harm to neighbouring occupiers by way of a loss of light, overlooking or overshadowing or other harm which could not be mitigated by conditions. All other material planning considerations are considered acceptable and in accordance with current policy and guidance.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

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

Site Location Plan 21-842-01

Retrospective Block Plan 21-842-02

Previously Existing Floor Plans 21-842-03

Previously Existing Elevations 21-842-04

Previously Existing Garage Plans 21-842-05

Retrospective Floor Plans 21-842-06

Retrospective Roof and Sectional Elevations 21-842-07

Retrospective Elevations 21-842-08

Retrospective Summer House Plans 21-842-09

Retrospective Summer House Plans 21-842-11

Reason: To clarify which plans have been approved.

- (2) Within 2 months of the date of this decision details of a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through the provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgehog corridors. The development shall be implemented in accordance with the approved details within 2 months of the approval of the submitted details and all features shall be maintained thereafter.

Reason: To enhance the ecology and biodiversity on the site in the future.

Case Officer: Summer Freeman-Smith

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 24th March 2022**

APPEAL DECISIONS:

- | | |
|------------------------------|---|
| 1. 21/501359/FULL | <p>Erection of a first and second floor rear extension together with roof alterations and roof lights (Resubmission of 20/502369/FULL)</p> <p>APPEAL: DISMISSED</p> <p>18 Lancet Lane
Maidstone
Kent
ME15 9RX</p> <p>(Delegated)</p> |
| <hr/> | |
| 2. 21/501935/FULL | <p>Demolition of existing temporary timber structure and erection of part single storey, part two storey side and rear extension.</p> <p>APPEAL: DISMISSED</p> <p>3 Rose Cottages
Maidstone Road
Nettlestead
Maidstone
Kent
ME18 5HB</p> <p>(Delegated)</p> |
| <hr/> | |
| 3. 21/502708/FULL | <p>Retrospective application for the removal of boundary hedge and erection of 6ft boundary fence.</p> <p>APPEAL: ALLOWED</p> <p>36 Medway Avenue
Yalding
Maidstone
Kent
ME18 6JN</p> <p>(Delegated)</p> |

4. 21/501089/FULL

Erection of a three bedroom detached dwelling with parking.

APPEAL: DISMISSED

Land Adjacent To 31 Willington Street
Maidstone
Kent
ME15 8JR

(Delegated)

5. 21/500263/OUT

Outline application for the erection of 1no. dwelling (Appearance, Layout and Scale being sought).

APPEAL: DISMISSED

Land Adjacent To 1 Bannister Road
Maidstone
Kent
ME14 2JY

(Delegated)

By virtue of paragraph(s) 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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