

PLANNING COMMITTEE MEETING

Date: Thursday 16 November 2023
Time: **7.30 p.m.**
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Cox, English (Vice-Chairman), Mrs Gooch, Harwood, Holmes, Jeffery, Kimmance, McKenna, Perry, Riordan, Russell, Spooner (Chairman) and D Wilkinson

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

Page No.

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 Items withdrawn from the Agenda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 - 23 November 2023
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 19 October 2023 adjourned to 26 October 2023 1 - 12
11. Presentation of Petitions (if any)
12. Deferred Items 13 - 14
13. 23/502119/OUT Former Syngenta Works, Hampstead Lane, Yalding, Kent 15 - 31

Issued on Wednesday 8 November 2023

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

14.	23/504294/FULL Land Adjacent To The Hawthorns, Pye Corner, Ulcombe, Kent	32 - 48
15.	23/502481/FULL Broken Tree, Forstal Lane, Coxheath, Kent	49 - 61
16.	23/503722/FULL Golden Oaks, Pye Corner, Ulcombe, Kent	62 - 72
17.	23/501345/FULL Reeds Wood, Cox Street, Detling, Maidstone, Kent	73 - 90
18.	23/501986/FULL Land North East Of Redwood Glade, Forge Lane, Bredhurst, Kent	91 - 105
19.	22/503566/FULL 62 Maidstone Road, Lenham, Kent	106 - 120
20.	23/504229/FULL La Torre, Boxley Road, Walderslade, Kent	121 - 134
21.	Appeals List	135 - 136

PLEASE NOTE

The following applications will be rolled over for consideration at the adjourned meeting of the Committee scheduled to be held on Thursday 23 November 2023 together with any other unfinished business:

23/501345/FULL - Reeds Wood, Cox Street, Detling, Maidstone, Kent

23/501986/FULL - Land North East of Redwood Glade, Forge Lane, Bredhurst, Kent

22/503566/FULL - 62 Maidstone Road, Lenham, Kent

23/504229/FULL - La Torre, Boxley Road, Walderslade, Kent

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/adjourned meeting, please call 01622 602899 or email committee@maidstone.gov.uk by 4 p.m. on Wednesday 15 November 2023. 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

To find out more about the work of the Committee, please visit www.maidstone.gov.uk

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 19 OCTOBER 2023 **ADJOURNED TO 26 OCTOBER 2023**

Present

19 October 2023:

Committee Members:	Councillor Spooner (Chairman) and Councillors Cox, Mrs Gooch, Harwood, Jeffery, McKenna, Perry, Riordan, Russell and D Wilkinson
Visiting Members:	Councillors Eagle and Garten

123. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Holmes and Kimmance.

124. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

125. NOTIFICATION OF VISITING MEMBERS

Councillor Eagle was present as a Visiting Member in connection with item 13 (22/504692/HYBRID – Land at Haven Farm, North Street, Sutton Valence, Kent), but indicated that, since he had a Disclosable Pecuniary Interest in the application, he would leave the meeting when it was discussed.

Councillor Garten was present remotely as a Visiting Member for item 14 (23/501579/FULL – Former Telephone Exchange, Ashford Road, Hollingbourne, Kent).

126. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

127. URGENT ITEMS

The Chairman said that he intended to take the update reports of the Head of Development Management 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.

128. DISCLOSURES BY MEMBERS AND OFFICERS

Councillors Perry and Riordan stated that they were Members of Staplehurst Parish Council. However, they had not participated in the Parish Council's discussions on application 23/502654/FULL (38 Southbank, Staplehurst, Tonbridge, Kent) and intended to speak and vote when it was considered.

Councillor Russell stated that some two years ago before she became a Member of the Planning Committee, residents contacted her about application 21/503412/FULL (Marden Sports Club, Maidstone Road, Marden, Kent) so she called it in for determination by the Committee. She had read the Committee report and intended to speak and vote on the item.

129. DISCLOSURES OF LOBBYING

All Members stated that they had been lobbied on items 13 (22/504692/HYBRID – Land at Haven Farm, North Street, Sutton Valence, Kent) and 16 (21/503412/FULL – Marden Sports Club, Maidstone Road, Marden, Kent).

130. EXEMPT ITEMS

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

131. MINUTES OF THE MEETING HELD ON 21 SEPTEMBER 2023

RESOLVED: That the Minutes of the meeting held on 21 September 2023 be approved as a correct record and signed.

132. PRESENTATION OF PETITIONS

There were no petitions.

133. DEFERRED ITEM

23/501635/FULL - CONVERSION OF EXISTING BARN TO RESIDENTIAL DWELLING, INCLUDING NEW ENTRANCE AND ACCESS DRIVE WITH ASSOCIATED PARKING (RE-SUBMISSION OF 22/501591/FULL) - CHICKENDEN BARN, CHICKENDEN LANE, STAPLEHURST, TONBRIDGE, KENT

The Head of Development Management advised the Committee that additional information on this deferred item was still awaited.

134. 22/504692/HYBRID - HYBRID PLANNING APPLICATION CONSISTING OF: FULL PLANNING APPLICATION FOR THE ERECTION OF 105NO. DWELLINGS, RETAIL SPACE (423M2), ACCESS OFF NORTH STREET AND SITE INFRASTRUCTURE WORKS, FOLLOWING DEMOLITION/REMOVAL OF THE EXISTING STRUCTURES. OUTLINE PLANNING APPLICATION (WITH ALL MATTERS RESERVED) FOR THE DEVELOPMENT OF A DOCTOR'S SURGERY (1,500M2) WITH ASSOCIATED CAR PARKING AND A PHASED DEVELOPMENT OF 5 X SELF-BUILD PLOTS - LAND AT HAVEN FARM, NORTH STREET, SUTTON VALENCE, KENT

Having disclosed a Disclosable Pecuniary Interest in this application, Councillor Eagle withdrew from the meeting.

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

Mrs Castle, an objector, Councillor Flint of Sutton Valence Parish Council, and Mr Loughhead, for the applicant, addressed the meeting.

RESOLVED: That subject to:

- A. The prior completion of a legal agreement in such terms as the Head of Legal Partnership may advise to secure the Heads of Terms set out in the report and the prior payment of monitoring fees of £6,885; and
- B. The conditions set out in the report, as amended by the urgent update report (condition 2), with additional conditions to require a Landscape and Ecological Management Plan and to prevent vehicular access to the parcel of land to the south, which forms part of the draft allocation, being through the open space/SUDs area,

the Head of Development Management be given delegated powers to grant permission and to be able to settle or amend any necessary planning conditions and/or informatives and Heads of Terms in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting: 7 – For 3 – Against 0 – Abstentions

135. MRS CHERYL PARKS

The Committee was informed that this was Cheryl Parks' last meeting of the Planning Committee before taking up a new position at Ashford Borough Council.

RESOLVED: That Mrs Parks be thanked for her services to the Council, particularly for her work in supporting the Planning Committee and on the adopted Local Plan and the Staplehurst Neighbourhood Development Plan, and wished all the very best for the future.

136. 23/503136/FULL - ERECTION OF BARN FOR THE PURPOSES OF AGRICULTURE USE - GREAT FOWLE HALL OAST HOUSE, DARMAN LANE, PADDOCK WOOD, TONBRIDGE, KENT

The Committee considered the report of the Head of Development Management.

RESOLVED: That permission be granted subject to the conditions set out in the report with delegated powers given to the Head of Development Management 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.

Voting: 10 – For 0 – Against 0 – Abstentions

137. 23/501579/FULL - CHANGE OF USE OF FORMER TELEPHONE EXCHANGE (SUI GENERIS) TO AN OFFICE (CLASS E(G)), INCLUDING ERECTION OF A SINGLE STOREY SIDE EXTENSION (RE-SUBMISSION OF 22/505768/FULL) - FORMER TELEPHONE EXCHANGE, ASHFORD ROAD, HOLLINGBOURNE, KENT

The Committee considered the report of the Head of Development Management.

Mrs Al-Shawi, the applicant, had registered to speak on the application but was unwell.

Councillor Garten (Visiting Member) addressed the meeting remotely.

During the discussion, Councillor McKenna stated that one of his businesses was located at Leeds Castle which was close to the application site. To avoid the appearance of bias, he would not participate further in the discussion or the voting on the application.

Contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse permission. In making this decision, the Committee considered that:

The existing building has a very limited impact on the countryside because of its size and curtilage but the proposal due to the size and scale of the building extension, external lighting, access road, car parking and increased level of activity will have a jarring and detrimental impact on the character and appearance of the countryside in this particular location which is remote from other development and the harm identified is not outweighed by any need for an office use in this location contrary to policies SP17 and DM30 of the Maidstone Borough Local Plan 2017.

RESOLVED: That permission be refused and that the Head of Development Management be given delegated powers to finalise the reasons for refusal based on the issues summarised above.

Voting: 7 – For 2 – Against 0 – Abstentions

Note: Having stated that one of his businesses was located at Leeds Castle, which was close to the application site, Councillor McKenna did not participate in the voting.

138. 23/503006/FULL - ERECTION OF FRONT INFILL EXTENSION, FRONT PORCH AND SINGLE STOREY REAR EXTENSION. INSERTION OF SIDE DORMERS, REAR ROOFLIGHTS AND EXTENSION TO EXISTING FIRST FLOOR - AVALON, BOXLEY ROAD, WALDERSLADE, CHATHAM, KENT

The Committee considered the report of the Head of Development Management.

The Democratic Services Officer read out a statement on behalf of Mrs Smith, an objector.

Councillor Mayes of Boxley Parish Council addressed the meeting.

RESOLVED:

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

An additional condition to require the submission of a landscaping scheme to break up the overall mass of the development. This could comprise a native species hedge or tree planting to the frontage, located in the best possible position to break up the massing.

The strengthening of condition 3 (Materials and Finishing) to ensure the congruity of the extension with the overall bungalow.

The strengthening of condition 6 (Enhancement of Biodiversity) to reference the relevant sections of the Residential Extensions Supplementary Planning Document.

The strengthening of condition 7 (Renewables) to reference the Residential Extensions Supplementary Planning Document in relation to requiring renewable energy generation.

2. That delegated powers be given to the Head of Development Management 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.

Voting: 10 – For 0 – Against 0 – Abstentions

139. 21/503412/FULL - ERECTION OF 8 NO. FULL MASTS AND 4 NO. LOWER MASTS FLOODLIGHTING TO SERVE THE SPORTS PITCHES - MARDEN SPORTS CLUB, MAIDSTONE ROAD, MARDEN, KENT

The Committee considered the report of the Head of Development Management.

When introducing the application, the Senior Planning Officer sought delegated powers to impose an additional condition requiring the applicant to submit details of the padding to be installed around the goal backs and on rebound panels to reduce the noise impact.

Mr Newton addressed the meeting on behalf of residents objecting to the application.

The Democratic Services Officer read out a statement on behalf of Mr Bax, the agent for the applicant.

RESOLVED: That consideration of this application be deferred to:

Assess the cumulative impact of the existing lighting, the lighting for the proposed padel courts and the lighting associated with this application;
Seek night-time photographs to see what the existing lighting looks like;
Seek details of a landscape scheme;
Seek details of the boundary treatments, including the acoustic fencing (height etc.) and bund to assess the visual impact and also to understand the planning status of the bund and fencing;
Seek up to date ecological information (including a bat survey) and an assessment of biodiversity net gain; and
Seek more information about the light spectrum proposed as the red end of the spectrum is less intrusive.

Voting: 10 – For 0 – Against 0 – Abstentions

140. 23/502654/FULL - ERECTION OF 3 BEDROOM DWELLINGHOUSE AND PROVISION FOR 2NO. CAR PARKING SPACES, INCLUDING ERECTION OF A FRONT PORCH AND A SINGLE STOREY REAR EXTENSION TO EXISTING DWELLINGHOUSE - 38 SOUTH BANK, STAPLEHURST, TONBRIDGE, KENT

The Committee considered the report of the Head of Development Management.

Councillor Ash of Staplehurst Parish Council addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report with the strengthening of condition 7 (Landscape Scheme) to specify that the landscape scheme shall show native hedging to the front boundary of the retained and proposed dwellings and demonstrate that the amount of soft landscaping to the frontage is maximised.
2. That the Head of Development Management be given delegated powers 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.

Voting: 10 – For 0 – Against 0 – Abstentions

141. ADJOURNMENT OF MEETING

At 8.35 p.m., following consideration of the report of the Head of Development Management relating to application 23/502654/FULL (38 South Bank, Staplehurst, Tonbridge, Kent), the Committee:

RESOLVED: That the meeting be adjourned until 6.00 p.m. on Thursday 26 October 2023 when the remaining items on the agenda will be discussed.

142. DURATION OF MEETING

6.00 p.m. to 8.40 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 19 OCTOBER 2023
ADJOURNED TO 26 OCTOBER 2023

Present

26 October 2023:

Committee Members:	Councillor Spooner (Chairman) and Councillors Cooper, Cox, Eagle, English, Mrs Gooch, Harwood, Kimmance, McKenna, Perry and Riordan
---------------------------	--

143. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Jeffery, Russell and D Wilkinson.

144. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Cooper for Councillor Russell
Councillor Eagle for Councillor Jeffery

145. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

146. ITEMS WITHDRAWN FROM THE AGENDA

23/501716/FULL - CHANGE OF USE OF AGRICULTURAL LAND TO RESIDENTIAL LAND AND ERECTION OF 1NO. DWELLING WITH ASSOCIATED PARKING, LANDSCAPING AND AMENITY AREA, INCLUDING PART DEMOLITION OF EXISTING UNAUTHORISED STRUCTURE (PART RETROSPECTIVE) (RE-SUBMISSION OF 22/504298/FULL) - CHERRY BARN, OLD TREE LANE, BOUGHTON MONCHELSEA, KENT

The Head of Development Management sought the agreement of the Committee to the withdrawal of application 23/501716/FULL from the agenda as there were a number of issues that the Officers needed to reconsider which were fundamental to its determination.

RESOLVED: That agreement be given to the withdrawal of application 23/501716/FULL from the agenda.

147. URGENT ITEMS

The Chairman said that he intended to take the update reports of the Head of Development Management 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.

148. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

149. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

9.	23/500773/FULL & 23/500769/LBC - Len House, Mill Street, Maidstone, Kent	Councillors Cox, Cooper, English, Mrs Gooch, Harwood and Kimmance
10.	23/501293/FULL - The Coach Yard, Old Ashford Road, Lenham, Kent	Councillor Kimmance
11.	23/501716/FULL - Cherry Barn, Old Tree Lane, Boughton Monchelsea, Kent	Councillors Cox, Harwood, Kimmance and Riordan
12.	23/503889/FULL - Balfour Winery, Five Oak Lane, Staplehurst, Kent	Councillors Cox, English, Mrs Gooch and Kimmance

150. EXEMPT ITEMS

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

151. 23/501293/FULL - CHANGE OF USE OF LAND FOR THE SITING OF MOBILE BURGER VAN AND CANOPY FOR THE PROVISION OF HOT FOOD ON THE FORECOURT (RETROSPECTIVE) - THE COACH YARD, OLD ASHFORD ROAD, LENHAM, KENT

The Committee considered the report of the Head of Development Management.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report with the amendment of condition 4 (i)(e) (Waste and Refuse Strategy) to ensure that it covers both trade waste and litter arisings from customers.
2. That delegated powers be given to the Head of Development Management 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.

Voting: 11 – For 0 – Against 0 – Abstentions

152. 23/503889/FULL - REPLACEMENT LIGHTING SCHEME TO WINERY SITE, RESURFACING OF CAR PARK AND HARDSTANDING AND ASSOCIATED DRAINAGE - BALFOUR WINERY, FIVE OAK LANE, STAPLEHURST, KENT

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

When introducing the application, the Principal Planning Officer advised the Committee that KCC Ecology had now withdrawn its objection to the scheme on ecology grounds and was satisfied that the design of the lighting would keep light spillage outside the site to a minimum and would not impact on any of the woodland or pond or any other area of ecological value in the vicinity.

The Democratic Services Officer read out a statement on behalf of Ms Tipples who objected to the application.

Councillor Ash of Staplehurst Parish Council and Ms Easton, for the applicant, addressed the meeting.

During the discussion, Councillor Perry stated that he was a Member of Staplehurst Parish Council. However, he had not participated in the Parish Council's discussions on the application and intended to speak and vote when it was considered.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report, as amended by the urgent update report, with:

An additional condition requiring the submission of a landscaping scheme for the written approval of the Local Planning Authority and a landscaping implementation condition. The landscaping scheme shall comprise native shrub planting between the building, lighting and large pond in the southeast corner of the site.

2. That delegated powers be given to the Head of Development Management 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.

Voting: 11 – For 0 – Against 0 – Abstentions

153. 23/500773/FULL & 23/500769/LBC - LEN HOUSE, MILL STREET, MAIDSTONE, KENT

23/500773/FULL - Section 73 - Application for minor material amendment to approved plans condition 2 (to allow amendments to the design and layout including rebuilding of 2 bays to Palace Avenue, omission of external boardwalk, first floor car park, 9 terraces to second floor and green roof of top roof level) and variation of conditions 3 (programme of archaeological work); 5 (contamination risks); 7 (commercial use of ground floor); 9 (materials); 10 (constructional details); 14 (roof treatments), 16 (EV charging facilities); 17 (hard landscape works); 24 (enhancement of biodiversity); 25 (LEMP); 31 (boardwalk and Mill Street forecourt), 34 (ground floor commercial space), 35 (external plant), 37 (travel plan) and 40 (sustainable surface water drainage scheme) pursuant to 20/501029/FULL (as amended by 23/500477/NMAMD) for - Restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide flexible commercial floorspace within the following uses - retail, financial and professional, cafe or restaurant, drinking establishment, offices, clinic or health centre, crèche or day nursery, gymnasium or indoor recreational purposes

uses (within classes - E, F2(a) & Sui Generis of the Town & Country Planning uses Classes Order). (ii) Provision of 22 residential apartments (C3) at first floor by conversion and erection of part rear first floor extension and provision of 58 No. residential apartments (C3) in two storey roof extension with rooftop amenity space, together with ancillary car parking. (iii) construction of two new buildings of up to 5-storeys to provide 79 No. residential apartments (C3) with amenity space. (iv) Provision of associated car parking, open space, landscaping, earthworks including demolition of hardstanding and structures, de-culverting the River Len and reutilisation of existing vehicular access points from Mill Street and Palace Avenue

AND

23/500769/LBC - Listed Building Consent for restoration of Len House, rebuilding of 2 bays to Palace Avenue and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide commercial floorspace within the following uses - retail, financial and professional, cafe or restaurant, drinking establishment, offices, clinic or health centre, creche, or day nursery, gymnasium or indoor recreational purposes uses (within classes E, F2(a) and Sui Generis) at ground floor. (ii) Provision of 22 No. residential apartments (class C3) at first floor by conversion and erection of a part rear first floor extension and provision of 58 No. residential apartments (class C3) in a two-storey roof extension with rooftop amenity space (iii) Associated landscaping to roof (Revised scheme to 20/501030/LBC)

The Committee considered the report, urgent update report and additional urgent update report of the Head of Development Management.

In introducing the applications, the Principal Planning Officer advised the Committee that:

- There had been further consultation responses. Southern Water Services and the Environment Agency had both reiterated their previous comments. KCC Drainage Authority had commented that the flood risk assessment was now out of date (April 2020), and they would wish to see it updated. It was therefore suggested that the submission of an updated flood risk assessment be incorporated into the drainage condition to be considered in conjunction with the revised drainage strategy.
- The Heads of Terms might need to be adjusted so delegated powers were requested to enable the Head of Development Management to settle or amend any necessary Heads of Terms in line with the matters set out in the recommendation and as resolved by the Planning Committee.
- There was a Head of Terms relating to the 'internal street'. It was now considered appropriate to deal with this by way of a planning condition.

Mr Obee, the applicant, addressed the meeting on both applications.

23/500773/FULL

RESOLVED: That subject to:

- A. The prior completion of a legal agreement in such terms as the Head of Legal Partnership may advise to secure (a) the Heads of Terms set out in the report as amended by the urgent update reports and by the Principal Planning Officer when introducing the applications; (b) amendments to the Heads of Terms to reflect Members' concern to ensure that discussions take place with the South East Rivers' Trust and the Environment Agency regarding the daylighting of the River Len and between Southern Water Services and the Environment Agency regarding misconnections with the river; and (c) the prior payment of monitoring fees of £3,825; and
- B. The conditions and informatives set out in the report as amended by the first urgent update report and by the Principal Planning Officer when introducing the applications (incorporation of updated flood risk assessment into the drainage condition and the 'internal street' to be dealt with as a planning condition) with an additional informative advising the applicant that there should be more solar panels on the roof than indicated,

the Head of Development Management be given delegated powers to grant permission and to be able to settle or amend any necessary planning conditions and/or informatives and Heads of Terms in line with the matters set out in the recommendation and as resolved by the Planning Committee, including to consider amendments to the Heads of Terms to reflect Members' concern to ensure that there is flexibility regarding the future use of first floor communal spaces.

Voting: 10 – For 0 – Against 1 – Abstention

23/500769/LBC

RESOLVED: That Listed Building consent be granted subject to the conditions set out in the report as amended by the first urgent update report with delegated powers given to the Head of Development Management 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.

Voting: 10 – For 0 – Against 1 – Abstention

- 154. 23/501716/FULL - CHANGE OF USE OF AGRICULTURAL LAND TO RESIDENTIAL LAND AND ERECTION OF 1NO. DWELLING WITH ASSOCIATED PARKING, LANDSCAPING AND AMENITY AREA, INCLUDING PART DEMOLITION OF EXISTING UNAUTHORISED STRUCTURE (PART RETROSPECTIVE) (RE-SUBMISSION OF 22/504298/FULL) - CHERRY BARN, OLD TREE LANE, BOUGHTON MONCHELSEA, KENT

See Minute 146 above.

- 155. APPEAL DECISIONS

The Committee considered the report of the Head of Development Management setting out details of appeal decisions received since the last meeting.

RESOLVED: That the report be noted.

156. DURATION OF MEETING

6.00 p.m. to 7.15 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

16 NOVEMBER 2023

REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT

DEFERRED ITEMS

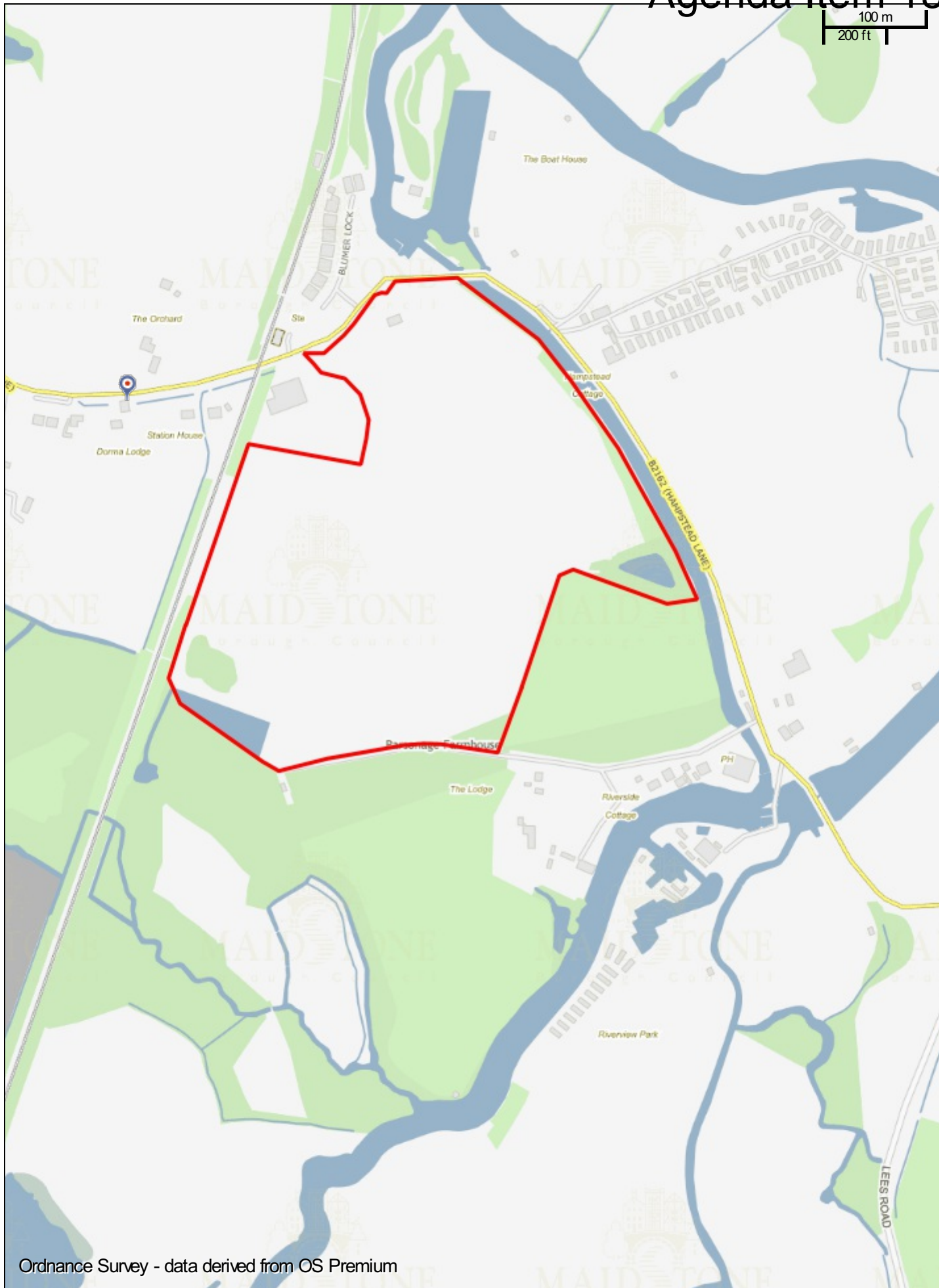
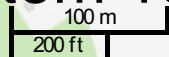
The following applications stand deferred from previous meetings of the Planning Committee. The Head of Development Management will report orally at the meeting on the latest situation.

APPLICATION	DATE DEFERRED
<p><u>23/501635/FULL - CONVERSION OF EXISTING BARN TO RESIDENTIAL DWELLING, INCLUDING NEW ENTRANCE AND ACCESS DRIVE WITH ASSOCIATED PARKING (RE-SUBMISSION OF 22/501591/FULL) - CHICKENDEN BARN, CHICKENDEN LANE, STAPLEHURST, TONBRIDGE, KENT</u></p> <p>Deferred to:</p> <ul style="list-style-type: none"> • Seek further arboricultural information on tree removal and the impact of the proposed development on retained trees (if any); and • Negotiate with the applicant regarding the submission of an ecological method statement for the dredging of the ditch and pond given the potential to affect protected species. 	<p>24 August 2023</p>
<p><u>21/503412/FULL - ERECTION OF 8 NO. FULL MASTS AND 4 NO. LOWER MASTS FLOODLIGHTING TO SERVE THE SPORTS PITCHES - MARDEN SPORTS CLUB, MAIDSTONE ROAD, MARDEN, KENT</u></p> <p>Deferred to:</p> <p>Assess the cumulative impact of the existing lighting, the lighting for the proposed padel courts and the lighting associated with this application;</p> <p>Seek night-time photographs to see what the existing lighting looks like;</p> <p>Seek details of a landscape scheme;</p>	<p>19 October 2023 adjourned to 26 October 2023</p>

Seek details of the boundary treatments, including the acoustic fencing (height etc.) and bund to assess the visual impact and also to understand the planning status of the bund and fencing;

Seek up to date ecological information (including a bat survey) and an assessment of biodiversity net gain; and

Seek more information about the light spectrum proposed as the red end of the spectrum is less intrusive.



Ordnance Survey - data derived from OS Premium

23/502119/OUT - Former Syngenta Works, Hampstead Lane, Yalding, Kent, ME18 6HJ

Scale: 1:5000

Printed on: 31/10/2023 at 15:52 PM by KirstyS



REPORT SUMMARY

REFERENCE NO: 23/502119/OUT		
APPLICATION PROPOSAL: Section 73 - Application for variation of condition 21 to allow 14,000m ² of floorspace to be occupied prior to the provision of the capacity improvements to the Maidstone Road/Hampstead Lane junction pursuant to 19/504910/OUT (Outline application for the redevelopment of the former Syngenta works site to provide a new business park of up to 46,447m ² of B1(c), B2 and B8 accommodation with associated access, parking and infrastructure works)		
ADDRESS: Former Syngenta Works, Hampstead Lane, Yalding, ME18 6HJ		
RECOMMENDATION: APPROVE PERMISSION		
SUMMARY OF REASONS FOR RECOMMENDATION:		
<ul style="list-style-type: none"> • The approved 'prior to occupation' of the development trigger point for delivery of the Maidstone Road/Hampstead Lane junction works was set because the original Transport Assessment for the outline application accounted for the entire occupation of the site. Whilst the full impact of the traffic will obviously not be felt straight away, in the absence of an assessment of the impact from a lower amount of floorspace at that stage, this trigger point was appropriate. • The applicant has now submitted new evidence in an attempt to demonstrate the impact of a lower amount of floorspace (14,000m²) without the junction works, would be acceptable. • It has been demonstrated through this new evidence that the traffic associated with 14,000m² of floorspace would not result in a severe traffic or highway safety impact at the existing Maidstone Road/Hampstead Lane junction. • Delivery of the junction works at this later point would sufficiently mitigate the traffic impact of this amount of floorspace and so it would not contravene policies SP23 or DM21 of the Maidstone Local Plan or the NPPF. • KCC Highways have reviewed this new evidence and raise no objections. • It is therefore acceptable to move the trigger for the implementation of the junction improvement to the occupation of 14,000m² of the development. 		
REASON FOR REFERRAL TO COMMITTEE: Nettlestead Parish Council consider the original condition should remain and have requested the application be considered by the Planning Committee.		
WARD: Marden & Yalding	PARISH COUNCIL: Yalding	APPLICANT: Mr Paul Medhurst AGENT: Braeside Developments Ltd
CASE OFFICER: Richard Timms	VALIDATION DATE: 05/05/23	DECISION DUE DATE: 20/11/23
ADVERTISED AS A DEPARTURE: No		

Relevant Planning History

- 23/502118 Approval of reserved matters (scale, layout, appearance and landscaping sought) for Phase B of the development, comprising erection of 20no. commercial units with associated parking, access and landscaping, pursuant to 19/504910/OUT – APPROVED 23/08/23
- 22/504426 Approval of reserved matters of scale, layout, appearance and landscaping for Phase A being site entrance works, gatehouse building, fencing, construction of the conveyance channel, first section of distributor road, bridge over conveyance channel, and associated landscaping pursuant to 19/504910/OUT including conditions 7 and 12 – APPROVED 01/03/23
- 19/504910 Outline application for the redevelopment of the former Syngenta works site to provide a new business park of up to 46,447 sqm of B1(c), B2 and B8 accommodation with associated access, parking and infrastructure works. (access only being sought) – APPROVED 08/10/21

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application relates to part of the former 'Syngenta Works' site which comprised of major plant and buildings used for the formulation, mixing and packing of agrochemicals. Outline permission was granted in October 2021 for up to 46,447m² of industrial and warehousing floorspace with access off Hampstead Lane.
- 1.02 Reserved matters have since been approved for site entrance works, the flood mitigation conveyance channel through the centre of the site, and 20 commercial units on the northeast part within 6 buildings (7,940m²). To date site clearance and the formation of haul roads has been carried out, and construction of the conveyance channel has started. The Hazardous Substances Consent which previously existed at the site was revoked in October this year.
- 1.03 The site is designated for either employment (B use classes) or leisure use under policy RMX1(4) in the Local Plan subject to criteria.

2. PROPOSAL

- 2.01 This is a 'section 73' application to vary condition 21 of the outline permission.

Condition 21 states:

The development shall not be occupied until the following off-site highways works have been provided in full:

- a) *Capacity improvements to the Maidstone Road/Hampstead Lane junction as shown on drawing no. 14949-H-01 RevP3.*
- b) *The tactile paved crossing points as shown on drawing no. C11101 RevG.*

c) *Box junction markings at the level crossing.*

Reason: In the interest of pedestrian and highway safety and mitigating traffic impacts.

2.02 The applicant is proposing to change the trigger point for providing the improvements to the Maidstone Road/Hampstead Lane (MR/HL) junction under part (a) to allow occupation of 14,000m² of floorspace. The trigger for the delivery of parts (b) and (c) would not change.

2.03 Whilst not relevant to the determination or merits of the application, the applicant has explained the change is proposed as an oil pipeline runs under the existing carriageway by the junction. There is no requirement to relocate the pipeline but protection is needed and agreement on the precise measures required for this are ongoing with 'Exolum' and this will add to the timeframe to deliver the junction works.

3. **POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017: SS1, SP11, SP16, SP18, SP21, SP23, RMX1, RMX1(4), DM1, DM2, DM3, DM4, DM5, DM6, DM8, DM21, DM23

Kent Waste and Minerals Plan (amended 2020)

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Local Plan Review (Regulation 22): LPRSS1, LPRSP7(D), LPRSP11, LPRSP11(B), LPRSP12, LPRSP13, LPRTRA2, LPRSAEmp1

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound have been put out to public consultation so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time.

4. **LOCAL REPRESENTATIONS**

4.01 **Local Residents:** 1 representation received raising the following (summarised) points:

- Assuming businesses on the site will require fast broadband infrastructure could this be extended to Little Venice as a sign of goodwill to neighbours.

4.02 **Yalding Parish Council:** Does not wish to make any comments.

4.03 **(Neighbouring) Nettlestead Parish Council:** Would want to see the condition originally imposed stay and the application reported to Planning Committee.

5. **CONSULTATIONS**

(Please note that summaries of consultation responses are set out below. Comments are discussed in more detail in the appraisal section where considered necessary)

KCC Highways and Transportation

5.01 No objections.

Network Rail

5.02 No objections.

Tunbridge Wells Borough Council

5.03 No objections.

6 APPRAISAL

6.01 The key issues are:

- The Reason for Condition 21
- The Traffic and Highway Safety Impact from the Occupation of 14,000m² of Floorspace

Reason for Condition 21

6.02 The reason for the condition is stated as being, *"In the interest of pedestrian and highway safety and mitigating traffic impacts."*

6.03 The committee report for the original outline application states,

"Maidstone Road/Hampstead Lane Junction

The applicant's Transport Assessment (TA) capacity assessments indicate that this junction to the west of the site will operate well within capacity during the AM peak in 2025. In the PM peak it will still be within theoretical capacity at 99% but queues would increase on Maidstone Road from the south as right turning vehicles into Hampstead Lane would block through movements.

The applicant considers that because this junction is important to the operations of the site (it being the sole route for HGVs routing to and from the site), mitigation is appropriate and has proposed a junction improvement introducing a right turn lane on Maidstone Road. This has been subject to an independent safety audit with all raised issues addressed. KCC Highways consider that the junction improvement would adequately mitigate the development and is necessary and raise no objection in terms of safety.

There is no set point at which mitigation of a junction is necessary but based on the impact taking one arm of the junction just under capacity (99%); this arm being the main access for HGVs to the site; and KCC highways advice; the mitigation is considered to be necessary, directly relevant to the

development, and reasonable and so a condition securing the improvement will be attached.

It is also noted that the Council's Infrastructure Development Plan 2020 identifies improvements at the Maidstone Road/Hampstead Lane junction as necessary to support the site allocation."

6.04 The junction improvement was therefore required primarily to mitigate the traffic impact of the development.

6.05 In terms of the trigger for delivery of the junction works (prior to occupation), this was set because the original Transport Assessment for the outline application accounted for the entire occupation of the site. Whilst the full impact of the traffic will obviously not be felt straight away, in the absence of an assessment of the impact from a lower amount of floorspace at that stage, this trigger point was appropriate.

6.06 The applicant has now submitted new evidence in an attempt to demonstrate the impact of 14,000m² of floorspace without the junction works, would be acceptable.

Traffic and Highway Safety Impact from the Occupation of 14,000m² of Floorspace

6.07 The applicant has provided an assessment of the impact of up to 14,000m² of floorspace at the MR/HL junction modelled in 2027 (as agreed with KCC Highways) when this level of occupation is predicted to occur. This is new evidence that was not before the Council under the original application.

6.08 The evidence forecasts that only the Maidstone Road arm in the PM peak would be near to theoretical capacity at 96% with the queue increasing from 14 to 19 vehicles and an additional 8 seconds of delay. The remaining arms would be well within capacity. It is considered that this level of impact is not objectionable or 'severe'.

6.09 KCC Highways have reviewed this new evidence and raise no objections stating:

"As requested by KCC Highways the applicant has undertaken a revised capacity assessment with a future year of 2027. KCC Highways consider that this offers a more realistic basis for assessment, given how it reflects a slower build out rate. Whereas the Transport Assessment (TA) that supported the outline planning permission accounted for the entire occupation of the site, the updated assessment accounts for 14,000 square meters being occupied, prior to the required highway works coming forward.

The results of the applicant's assessment confirm in the future year the Maidstone Road arm of the junction will exceed practical capacity, with an anticipated queue of 14 vehicles in the PM peak period. Conditions are further worsened at the junction following the occupation of 14,000 square meters of the development, with the queue increasing from 14 to 19 vehicles and an additional 8 seconds of delay. It is the applicant's view that this worsening is

marginal, when compared to the baseline situation, and as such the impact of the development could not be considered 'severe.'

KCC Highways maintain the view that where possible infrastructure improvements should be provided in advance of development coming forward, to allow the timely delivery of mitigation. However, the applicant's evidence demonstrates that the impact of the would be limited; particularly, given how the even without the highway works the development is only predicted to be over capacity in one peak period. As such is not considered that a congestion-based objection would be sustainable in this instance.

In addition, the applicant has checked the personal injury collision (PIC) record for the junction to confirm if there are any inherent safety issues that would necessitate the works coming forward in accordance with the current planning condition. This confirm that no collisions have occurred in the latest 5-year period for which data is available. As such, there is no evidence to indicate that the delivery of the highway works at a later stage in the development would adversely impact upon overall levels of highway safety."

6.10 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."

6.11 In terms of highway safety, as can be seen from KCC Highways advice above, the applicant has again checked the personal injury collision (PIC) record for the junction and they advise there is no evidence to indicate that the delivery of the highway works at a later stage in the development would adversely impact upon overall levels of highway safety.

6.12 For the above reasons, the applicant has demonstrated the trips generated from up to 14,000m² of floorspace would not result in a 'severe' traffic impact or any highway safety issues and so it is considered acceptable to vary the trigger for delivery of the MR/HL junction to 14,000m² of floorspace. Delivery at this point would then sufficiently mitigate the traffic impact of this amount of development and so it would not contravene policies SP23 or DM21 of the Local Plan or the NPPF.

PUBLIC SECTOR EQUALITY DUTY

6.13 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 approved 'prior to occupation of the development' trigger point for delivery of the MR/HL junction works was set because the original Transport Assessment for the outline application accounted for the entire occupation of the site. Whilst the full impact of the traffic will obviously not be felt straight away, in the absence of an assessment of the impact from a lower amount of floorspace at that stage, this trigger point was appropriate.

- 7.02 The applicant has now submitted new evidence in an attempt to demonstrate the impact of a lower amount of floorspace (14,000m²) without the junction works would be acceptable.
- 7.03 It has been demonstrated through this new evidence that the traffic associated with this level of floorspace would not result in a severe traffic or highway safety impact at the existing MR/HL junction. Delivery of the junction works at this later point would sufficiently mitigate the traffic impact of this amount of floorspace and so it would not contravene policies SP23 or DM21 of the Maidstone Local Plan or the NPPF.
- 7.04 This new evidence has been fully considered by the Highways Authority who raise no objections.
- 7.05 It is therefore considered acceptable to vary the trigger for delivery of the MR/HL junction to 14,000m² of floorspace and the new condition would read as follows:

The development shall not be occupied until the following off-site highways works have been provided in full:

a) The tactile paved crossing points as shown on drawing no. C11101 RevG.

b) Box junction markings at the level crossing.

The following off-site highways works shall be provided no later than the occupation of 14,000m² of floorspace. The development shall not be occupied beyond this point until these off-site highways works have been provided:

c) Capacity improvements to the Maidstone Road/Hampstead Lane junction as shown on drawing no. 14949-H-01 RevP3.

Reason: In the interest of pedestrian and highway safety and mitigating traffic impacts.

- 7.06 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. The section 106 legal agreement relating to the original permission has a clause (9.3) which ties it to any new permission so there is no requirement for a new legal agreement.

8 RECOMMENDATION

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

CONDITIONS:

1. The development shall be carried out in accordance with the following reserved

matters details:

- a) Reserved matters of scale, layout, appearance, and landscaping for Phase A being site entrance works, gatehouse building, fencing, construction of the conveyance channel, first section of distributor road, bridge over conveyance channel, and associated landscaping approved under application 22/504426/REM or any subsequent variation to that permission.
- b) Reserved matters of scale, layout, appearance, and landscaping for Phase B of the development comprising erection of 20no. commercial units with associated parking, access and landscaping approved under application 23/502118/REM or any subsequent variation to that permission.

Any phase shall be begun either before 8th October 2026, 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.

Reason: For purposes of clarity and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 2. No phase of the development hereby approved beyond those listed under condition 1 shall commence until approval of the following reserved matters has been obtained in writing from the local planning authority for that phase:

- a) Scale b) Layout c) Appearance d) Landscaping

Application for approval of the reserved matters shall be made to the local planning authority before 8th October 2026.

The development hereby permitted shall be begun either before 8th October 2026, 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.

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 3. The access points hereby permitted shall be carried out in accordance with drawing no. C11101 RevG including installation of the height barriers which shall be retained thereafter, and the visibility splays kept free of obstruction above a height of 1 metre. The eastern access shall only be used as an entrance to the site and the western access shall only be used as an exit except in times of emergency.

Reason: In the interests of highway safety.

- 4. The layout details submitted pursuant to condition 2 shall show no built form upon the areas defined as 'proposed new and enhancement planting zones', 'existing tree buffers', 'ecology zone', and 'conveyance route' as shown on the approved Constraints Plan (Drawing No.4092/SK04b).

Reason: To ensure the development accords with the site allocation policy, protects and enhances biodiversity, and provides a high-quality design.

- 5. The details of appearance submitted pursuant to condition 2 shall include:

- a) Non-reflective materials and sensitive colouring.
- b) Active frontages on prominent buildings.
- c) The use of materials and articulation to break up the massing of buildings.
- d) The use of vernacular materials including ragstone on either buildings or in boundary treatments.
- e) High quality surfacing materials.

Reason: To ensure a high-quality appearance to the development.

6. The layout and appearance details submitted pursuant to condition 2 shall be designed to minimise the impact of any noise to nearby residential properties and shall demonstrate how they achieve that.

Reason: In the interest of residential amenity.

7. The landscape details submitted pursuant to condition 2 shall provide the following:

- a) New native tree and shrub planting within the 'proposed new and enhancement planting zones', and 'existing tree buffers' around the boundaries of the site as shown on the approved Constraints Plan (Drawing No.4092/SK04b).
- b) Native tree and shrub planting within the development areas to soften buildings and parking areas.

Reason: To ensure the development accords with the site allocation policy and to provide an appropriate setting.

8. The details submitted pursuant to condition 2 shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by JBA Consulting, (Final Report dated September 2019 including the Model report dated August 2019) and include the following mitigation measures:

- a) Finished floor levels of any commercial buildings shall be set no lower than 13.70mAOD.
- b) Provision of the flood conveyance channel including details and final levels.
- c) Floodable voids beneath buildings.
- d) Details of flood resilient trunking of utilities.

Reason: To reduce the risk of flooding to the proposed development and off-site.

9. The development shall be carried out in accordance with the detailed ecological mitigation and enhancement strategy for the 13ha of land to the south of the site approved under application 22/502161/SUB.

Reason: In the interest of biodiversity protection and enhancement.

10. The development shall be carried out in accordance with the Construction Management Plan and Code of Construction Practice approved under application 22/501299/SUB unless otherwise agreed in writing with the Local Planning Authority.

Reason: In view of the scale of the development and in the interests of highway safety and local amenity.

11. The development shall be carried out in accordance with Phasing Plan approved under application 22/501299/SUB unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a suitable development of the site.

12. The development shall be carried out in accordance with the monitoring and maintenance plan in respect of groundwater and the PRB gate sampling points, and the timetable of monitoring approved under applications 22/501299/SUB and 23/501314/SUB.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by managing any on-going contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 174 of the NPPF.

13. The development shall be carried on in accordance with the development levels approved under application 22/501299/SUB for Phases A and B. No development shall take place on any further phase of development, except for site preparation works, until details of the proposed slab levels of the buildings and roads together with the existing site levels relating to that phase have been submitted to and approved in writing by the Local Planning Authority, and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development.

14. The development shall be carried on in accordance with the detailed sustainable surface water drainage scheme approved under application 22/501820/SUB.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

15. The development shall be carried on in accordance with the contamination risk assessment, site investigation scheme, and remediation measures approved under applications 22/501820/SUB and 23/501195/SUB. No occupation shall take place until a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the approved remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved and any changes to these components require the written consent of the LPA.

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 174 of the National Planning Policy Framework (NPPF).

16. No development above slab level of any phase shall take place until a scheme of noise mitigation measures specifically in relation to delivery, loading and unloading has been submitted to and approved by the local planning authority for that phase. The scheme shall be designed to mitigate against the potential impact specified by a realistic assessment. The scheme shall include a noise management plan which shall include but not be limited to the following:

- a) Delivery locations.
- b) Measures to prevent vehicle idling.
- c) Measures to minimise the use of reversing beepers.
- d) Measures relating to the lowering of lorry tail lift flaps.
- e) The use of plastic or rubber wheels for trolleys.
- f) Measures to control the behaviour of operatives on site.
- g) Complaint contact and recording details.
- h) A review period for the noise mitigation and management measures.

The acoustic assessment approved in the outline planning application shall be revisited as the detailed application progresses to ensure that it remains valid and mitigation is incorporated into the design of the facility. Once approved the mitigation scheme shall be retained and maintained to the satisfaction of the local planning authority.

Reason: In the interest of residential amenity.

17. No development above slab level of any phase shall take place until specific air quality mitigation measures, which shall include the type and location of electric vehicle charging infrastructure within parking areas, lorry trailer plug-ins, and cycle parking, 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.

Reason: In the interests of limiting impacts upon air quality.

18. The habitat creation plan for the 'ecology zone' as shown on the approved Constraints Plan (Drawing No.4092/SK04b) and as approved under application 23/501271/SUB shall be implemented as approved.

Reason: In the interest of biodiversity enhancement.

19. Within 3 months of the completion of the flood conveyance channel, a long-term site wide management plan for both the 'ecology zone' and for the 13ha of land to the south of the site shall be submitted to and approved in writing by the Local Planning Authority, which shall include the following:

- a) Map showing area to be managed.
- b) Overview of management to be implemented including aims and objectives.
- c) Detailed management timetable to meet the aims and objectives.
- d) Monitoring & review programme.
- e) Details of who will be implementing management.

The habitat creation plan must be implemented as approved.

Reason: In the interest of biodiversity protection and enhancement.

20. The development shall not be occupied until a final 'Delivery & Route Management Strategy' with the aims of deterring and reducing the potential for any large HGV movements through Yalding village centre and to manage long vehicles exiting the site in the interest of safety at the nearby level crossing has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority and Network Rail. It shall include details of the following:

a) A review of the 'black lorry' industrial estate signs on the A228 (to encourage vehicles to use the Maidstone Road), the B2162 (to keep heavy goods vehicles on the A21/A228), and Hunton Road/Pattenden Lane (to keep vehicles on the A229), to ensure that any large HGV movements through Yalding village centre are reduced/deterred and appropriate routes are signposted including any proposed changes to the signs.

b) Appropriate 'no HGV access' signs to the south and east of Yalding village centre to ensure that any large HGV movements through Yalding village centre are reduced/deterred and appropriate routes are signposted.

c) Site Access Signage - to direct all heavy goods vehicles westbound onto the Maidstone Road.

d) Site Access Signage - clearly stating 'no right turn for HGV's' exiting the site.

e) Measures to manage long vehicles exiting the site in the interest of safety at the nearby level crossing.

Reason: In the interests of highway safety and congestion.

21. The development shall not be occupied until a final site-wide 'Delivery Management Strategy' with the aim of minimising any noise and disturbance during night-time hours has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of minimising any impacts of noise to nearby residential properties.

22. The development shall not be occupied until the following off-site highways works have been provided in full:

a) The tactile paved crossing points as shown on drawing no. C11101 RevG.

b) Box junction markings at the level crossing.

The following off-site highways works shall be provided no later than the occupation of 14,000m² of floorspace. The development shall not be occupied beyond this point until these off-site highways works have been provided:

c) Capacity improvements to the Maidstone Road/Hampstead Lane junction as shown on drawing no. 14949-H-01 RevP3.

Reason: In the interest of pedestrian and highway safety and mitigating traffic impacts.

23. The development shall be carried out in accordance with the Travel Plan approved under application 23/500870/SUB.

Reason: To promote sustainable transport use.

24. 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.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

25. No phase of the development shall be occupied until a verification report demonstrating the completion of works set out in the approved contamination remediation strategy and the effectiveness of the remediation for that phase has been submitted to and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the NPPF.

26. No building on any phase of the development hereby permitted shall be occupied until details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used 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. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority.

Reason: In the interests of residential amenity

27. No building on any phase of the development hereby permitted shall be occupied until details of measures to deal with the emission of dust, odours or vapours arising from the building/use has been submitted to and approved in writing by the Local Planning Authority for that phase. Any equipment, plant or process provided or undertaken in pursuance if this condition shall be installed

prior to the first use of the premises and shall be operated and retained in compliance with the approved scheme.

Reason: In the interests of residential amenity.

28. No phase of development shall be occupied until a detailed lighting plan has been submitted to and approved in writing for that phase, which shall demonstrate it has been designed to minimise impact on biodiversity and is meeting the lighting principles set out in the Technical Briefing Note; Aspect Ecology; November 2019. The lighting plan must be implemented as approved.

Reason: In the interest of biodiversity protection.

29. The development shall be operated in accordance with the flood evacuation plan approved under application 23/500870/SUB.

Reason: In the interests of safety.

30. If, during development of any phase, contamination not previously identified is found to be present at the site then no further development of that phase (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

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 paragraph 174 of the NPPF.

31. The development shall be carried out in accordance with the surface water drainage infiltration details approved under application 22/501820/SUB. No further infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority in consultation with the Environment Agency.

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 paragraph 174 of the NPPF.

32. Foundation designs using deep penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority in consultation with the Environment Agency, which may be given for those parts of the site where it has been demonstrated by a foundation risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

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 paragraph 174 of the NPPF.

33. No lighting should be used within the flood conveyance/open space corridor or

vegetated boundary buffers, which shall form light exclusion zones or 'dark corridors' to allow nocturnal/crepuscular fauna to move around the site.

Reason: In the interests of biodiversity protection.

34. The details submitted pursuant to condition 2 shall not exceed the following floorspace limits:

Class E(g)(iii) or B2 - no more than 19,943m² combined
B8 uses - 26,504m²

Reason: To comply with the floorspace amounts assessed under the application.

35. All buildings shall achieve a Very Good BREEAM UK New Construction 2014 rating. A final certificate shall be issued to the Local Planning Authority for written approval to certify that at a Very Good BREEAM UK New Construction 2014 rating has been achieved within 6 months of the first occupation of any building.

Reason: To ensure a sustainable and energy efficient form of development.

36. Any buildings and associated land shall only be used for Class E(g)(iii), B2 or B8 uses and for no other purpose (including any other purpose under Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) or permitted under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)) or any statutory instrument revoking and re-enacting those Orders with or without modification;

Reason: To comply with the floorspace types assessed under the application and as other Class E uses may not be suitable at the site.

37. The development hereby permitted shall be carried out in accordance with drawing no. C11101 RevG (Site Entrance) and 4092/P100 (Site Location Plan).

Reason: For the purposes of clarity.

38. The development shall be carried out in accordance with the on-site foul drainage details approved under application 22/501820/SUB.

Reason: To ensure that the development does not result in unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework (NPPF).

39. For the purposes of the above conditions, 'Site Preparation Works' means the following:

Demolition - Which means removal of Headwalls, Bunds, Culverts, Substation, Water Channels and the Eastern Fire Lagoon Structure.

Site Clearance - Which means removal of vegetation excluding that within the 'proposed new and enhancement planting zones', and 'existing tree buffers'

around the boundaries of the site as shown on the approved Constraints Plan (Drawing No.4092/SK04b).

Formation of Haul Roads - Which means the laying of mats to run lorries and construction traffic over.

Safety Works - Which means the erection or enhancement of security fencing, hoarding, CCTV poles and any other HSE matters.

Reason: For the purposes of clarity.

Informative:

The applicant shall liaise with Network Rail to seek that the new lighting to be provided in the car park at Yalding Railway Station through S106 funding shall be environmentally sensitive so that it does not harmfully impact on neighbours and biodiversity.

Agenda Item 14



Ordnance Survey - data derived from OS Premium



23/504294/FULL - Land Adjacent To The Hawthorns, Pye Corner, Ulcombe, Kent, ME17 1EF

Scale: 1:2500

Printed on: 31/10/2023 at 20:40 PM by KirstyS



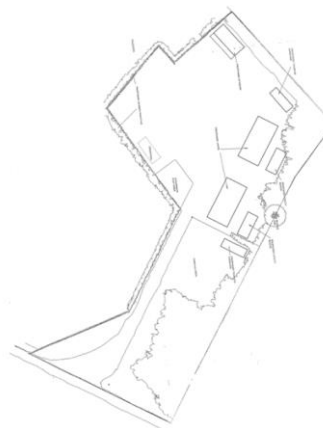
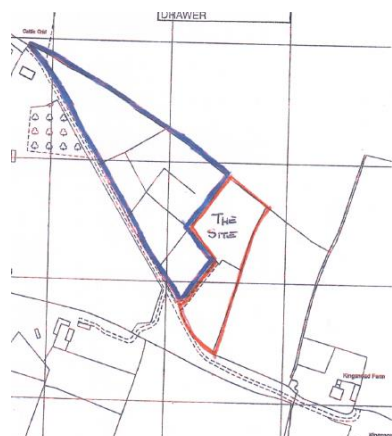
REPORT SUMMARY

REFERENCE NO: 23/504294/FULL		
APPLICATION PROPOSAL: Change of use of the land for the stationing of 3no. mobile homes and 3no. touring caravans for Gypsy/Traveller occupation, with associated hard and soft landscaping.		
ADDRESS: Land adjacent to The Hawthorns, Pye Corner, Ulcombe, Kent, ME17 1EF		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal is acceptable in relation to harm to the character and appearance of the countryside, sustainability, highways, residential amenity, flooding and drainage.		
REASON FOR REFERRAL TO COMMITTEE Called in by Ulcombe Parish Council for the reasons set out in section 4 of this report and by Cllr Ziggy Trzebinski.		
WARD: Headcorn	PARISH COUNCIL Ulcombe	APPLICANT: Mr Miley Cash AGENT: SJM Planning Limited
CASE OFFICER: Pieter De Villiers	VALIDATION DATE: 22/09/23	DECISION DUE DATE 17/11/23
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

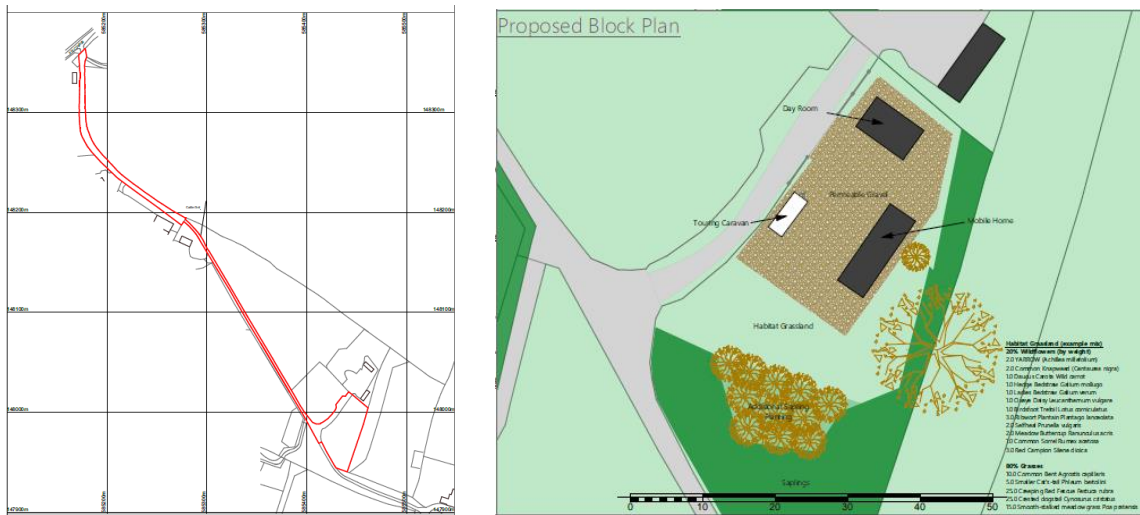
- a) 09/0208 - Change of use to gypsy caravan site to include to 2 No. mobile homes, 2 No. touring caravans, 2 No. utility blocks and 2 No. stables and tack room. (Considered at committee 12 August 2010) Granted 18 August 2010. *(NB: site covers the land area of local plan allocation GT1 (15) with permission providing 2 pitches (consisting of 4 caravans) of the maximum of 5 pitches permitted by the allocation. This plot is to the south east and north east of the current application site).*

Site location plan and proposed block plan for 09/0208



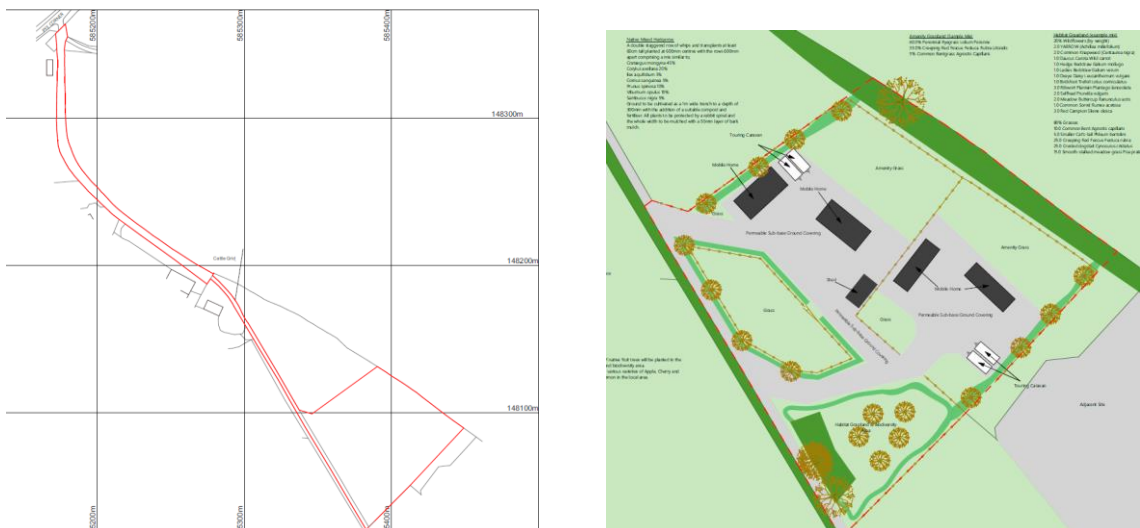
- b) 23/500381/FULL Change of use of the land for the stationing of one static mobile, one touring caravan and one day room for Gypsy / Traveller occupation. Associated hard and soft landscaping (Part retrospective). (Considered at committee 20 April 2023) Granted 15 May 2023 (NB: site covers front land area of local plan allocation GT1 (15) and provides one pitch which together with 09/0208 provides 3 of the of 5 pitches maximum permitted by the allocation. This plot is to the south east of the current application site).

Site location plan and proposed block plan 23/500381/FULL



- c) 23/500383/FULL Change of use of the land for the stationing of four static mobiles, four touring caravans for Gypsy / Traveller occupation. Associated hard and soft landscaping. (Amended version to that approved under reference MA/17/502714/FULL) (Part retrospective). (Considered at committee 20 July 2023) Granted 04 August 2023. This plot is to the north west of the current application site)

Site location plan and proposed block plan 23/500383/FULL



MAIN REPORT

1. DESCRIPTION OF SITE

1.01 This site is in open countryside within Ulcombe Parish. This is an area characterised by grassed paddocks on level land to the south of the Greensand Ridge. The site is

2. PROPOSAL

- 2.01 Planning Permission is sought retrospectively for change of use of the land for the stationing of three static mobiles and three touring caravans for Gypsy or Traveller occupation, with associated hard and soft landscaping.
- 2.02 The proposal retains the existing access point onto the private track. The proposal will provide areas of grassland and biodiversity areas. The proposal includes the removal of existing close board fencing along the north-western, south-western and south-eastern boundaries to be replaced with post/rail fencing, trees and hedging.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

SS1 - Spatial strategy

GT1(15) - Hawthorn Farm, Pye Corner, Ulcombe

SP17 - Countryside

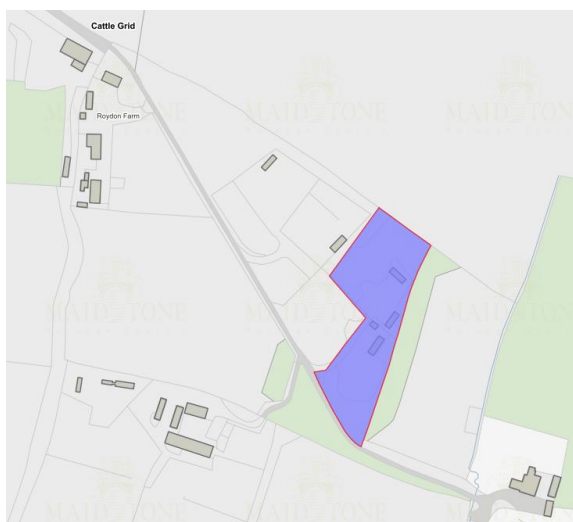
DM1 - Principles of good design

DM3 - Natural environment

DM15 - Gypsy, Traveller and Travelling Showpeople accommodation

DM30 - Design principles in the countryside

Local Plan site allocation GT1(15) Map - Hawthorn Farm, Pye Corner, Ulcombe



National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents:

- Maidstone Landscape Character Assessment (amended 2013),
- Planning Policy for Traveller Sites 2015 (PPTS)
- Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)
- Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2023)

Emerging Draft Policy: Maidstone Draft Local Plan:

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some

weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time. The relevant policies are as follows:

LPRSP10: Housing

LPRSP10(A): Housing mix

LPRSP12: Sustainable transport

LPRSP14: The Environment

LPRSS1: Maidstone borough spatial strategy

LPRSP9: Development in the countryside

LPRSP14A: Natural environment

LPRSP14(C): Climate change

LPRSP15: Principles of Good Design

LPRHOU 8: Gypsy and Traveller accommodation

LPRTRA2: Assessing the transport impacts of development

PRTRA4: Parking

LPRQ&D 1 Sustainable design

LPRQ&D 2: External lighting

LPRQ&D 6: Technical standards

4. LOCAL REPRESENTATIONS

Local residents:

4.01 No response to neighbour consultation

Cllr Ziggy Trzebinski.

4.02 Request that the application is reported to committee if officers are minded to grant permission – no reasons given.

Ulcombe Parish Council:

4.03 Ulcombe Parish Council objects to this application on the following grounds:

- Absence of evidential proof for Traveller status (reference to other applications were noted, however, these relate to a different applicant).
- Harm to the local landscape Low Weald Landscape of Local Value in conflict with Policy SP17.
- Impact on nearby residential properties and the public footpath KH330
- Dominance of nearest settled community
- The site does not fulfil the definition of "sustainability" in policy DM15.
- The effect of this proposal on protected species.
- Increase vehicle movements causing harm to the highway network and public footpath KH330.

5. CONSULTATIONS

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

KCC Public Rights of Way

5.01 No objection.

MBC Landscape Officer

5.02 No objection subject to conditions.

- 5.03 Conditions are required to secure the landscaping on submitted drawing no. 2023-1091v1-LocBlock and to request more information on planting implementation and long-term maintenance.

6. APPRAISAL

- 6.01 The key issues for consideration relate to:

- Policies SP17 and DM15 (countryside, highways, flooding, landscape & ecology)
- Need and supply of sites.
- Gypsy status.
- Residential amenity

SP17 and DM15 (countryside, highways, flooding, landscape & ecology)

- 6.02 The application site is in the countryside and the starting point for assessing all applications in the countryside is Local Plan policy SP17. Policy SP17 states that development proposals in the countryside will only be permitted where:

- a) there is no harm to local character and appearance, and
- b) they accord with other Local Plan policies

- 6.03 Policy SP17 does not specify an acceptable level of harm to local character and appearance, and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17.

- 6.04 In specific circumstances where there is locational need for development (equestrian, rural worker dwelling, agricultural buildings etc) other Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall.

- 6.05 In this case, policy DM15 accepts that new Gypsy and Traveller accommodation will be in the countryside and lists 5 criteria that planning applications will be assessed against. These criteria are considered below:

i. Local services, in particular school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.

- 6.06 The supporting text to policy DM15 states in relation to Gypsy and Traveller accommodation *"It is preferable for sites to be located close to existing settlements where there are community facilities such as schools and health services. Frequently, because of land availability, more rural sites are proposed. Where such sites are proposed, the impact of development on the landscape and rural character is an important factor in respect of the wider objective of protecting the intrinsic character of the countryside"*.

- 6.07 Whilst the local plan does not provide a definition of what distance is considered 'close' to a settlement, the application site is a 4 minute (0.9 miles) car journey from Ulcombe Primary School (Ulcombe set to become a designated 'smaller village' in the emerging plan). Headcorn Library is a 11 minute car journey from the site (3.2 miles).

- 6.08 Although the occupants of the site would be largely reliant on private motor vehicles to access local services and facilities, this is not untypical of Gypsy and Traveller sites in rural locations. Although not highly sustainable in respect of location, the

site is not so far removed from basic services and public transport opportunities as to justify refusal.

- 6.09 In addition, it is highlighted that the application site is immediately adjacent to a local plan allocated Gypsy and Traveller site. The location has been considered by the Council in the context of their Gypsy and Traveller site needs assessment and allocated in the Local Plan for Gypsy and Traveller development.
- 6.10 ii. The development would not result in significant harm to the landscape and rural character of the area. Impact on these aspects will be assessed with particular regard to: a. Local landscape character; b. Cumulative effect - the landscape impact arising as a result of the development in combination with existing lawful caravans; and c. Existing landscape features - development is well screened by existing landscape features and there is a reasonable prospect of such features' long term retention; Additional planting should be used to supplement existing landscaping but should not be the sole means of mitigating the impact of the development.
- 6.11 The Maidstone Landscape Character Assessment advises that the site lies within the Low Weald Landscape Character Area, specifically within the Ulcombe mixed farmlands area. The Low Weald Landscape of Local Value (LLV), for the purposes of the Local Plan, is a landscape that is highly sensitive to significant change and is recognised as having distinctive landscape features: mosaic like field patterns, many of medieval character, hedgerows, stands of trees, field ponds and streams and buildings of character should be conserved and enhanced where appropriate.
- 6.12 Where Gypsy and Traveller developments are normally permitted, it is based on being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan. Consequently, unless well screened or hidden away in unobtrusive locations, mobile homes are normally considered unacceptable in their visual impact.
- 6.13 There is a public right of way immediately to the south of the application site and the site is visible from this PROW with minimal screening along the south-western boundary. However, from further afield the application site is generally screened from views because of its location behind other parcels of land where mature boundary vegetation exists, resulting in the application being screened on four sides.
- 6.14 Additionally, from more distant views, such as from Knowle Hill, the overall impression looking south across the landscape is of an expanse of woodland, with Pye Corner visible and some isolated dwellings. The application site and nearby Gypsy and Traveller sites are not easily recognised, if at all. It is accepted that views may change in the winter, due to less leaf coverage, but it is not considered a noticeable change due to the impact of existing sporadic developments in the immediate vicinity of the application site, including other lawful Gypsy and Traveller sites, on the landscape.
- 6.15 Landscape proposals as shown on drawing no. 2023-1091v1-LocBlock, received 30 October 2023, includes habitat grassland (grass and wildflower mix) and biodiversity areas, native mixed hedgerows, and a selection of native fruit trees. The additional tree planting will be in the southern corner of the site and along the south eastern and north western boundaries.
- 6.16 Post and rail fencing instead of the existing close-boarded fencing are also found along the boundaries of the site apart from the north eastern boundary with the adjacent Hawthorn site. The additional tree planting and hedgerows around the site

are in line with the MBC Landscape Character Assessment and would increase biodiversity.

- 6.17 MBC Landscape Officer has found the landscaping proposals acceptable and suggested relevant landscape conditions requiring more information on planting implementation and long-term maintenance. Overall, given its small scale, the harm is found to be localised with no significant medium to long range impact.
- 6.18 Policy DM15 advises that applications need to be assessed in relation to "Cumulative effect - the landscape impact arising as a result of the development in combination with existing lawful caravans".
- 6.19 The proposal is a small site wedged between Hawthorn Farm, (allocated as a Gypsy and Traveller site for a total of 5 pitches in accordance with Policy GT1(15) of the Maidstone Borough Local Plan) and a recently approved Gypsy and Traveller site at Land West of The Hawthorns. The proposal would retain the existing access point and would provide areas of soft landscaping, areas of grassland, new hedging and biodiversity areas including several native fruit trees.
- 6.20 The application site is generally screened from views because of its location behind other parcels of land and mature boundary vegetation, resulting in the application being screened on four sides from more distant viewpoints. As mentioned above, from more distant views on Knowle Hill, the overall impression looking south across the landscape is of an expanse of woodland, with Pye Corner visible and some isolated dwellings. The application site and nearby Gypsy and Traveller sites are not easily recognised, if at all.
- 6.21 The character of the area is of existing sporadic developments, including other lawful Gypsy and Traveller sites. It is concluded that the harm caused by the proposal would be minimal and not such to warrant refusal. The site layout along with the landscaping proposals are reflective of PPTS 2015 which states sites should be well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness. Overall, minimal harm would be caused by any cumulative effects because of the proposal.

iii. The site can be safely accessed to and from the highway by all vehicles using the site on a regular basis.

- 6.22 Policy DM1 states that applications must ensure that development does not result in, amongst other things excessive activity or vehicle movements. DM30 also continues this theme stating that proposals must not result in unacceptable traffic levels on nearby roads or unsympathetic changes to the character of rural lanes.
- 6.23 There are no highway issues with the existing access suitable for the extra demand from this application. The track from the unclassified country road is a public right of way and has vehicular rights of access. It is concluded that the vehicle movements resulting from the application can easily be accommodated on the local road network.
- 6.24 NPPF guidance states that "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*" (NPPF para 111). The current application does not meet these tests with no highway safety impact found and no severe impact on the highway network present.
- 6.25 The Parish Council have said that the proposal will impact on the public right of way KH330. Whilst the current application will lead to more traffic on the access track,

this additional traffic is not great enough to justify the refusal of planning permission. The KCC public rights of way has not raised any objection to the application.

iv. The site is not located in an area at risk from flooding (zones 3a and 3b)

6.26 The site lies within Flood Zone 1, consequently flooding is not an issue. A planning condition will be imposed to secure permeability of site hardstanding and assist in surface water drainage.

6.27 The application form suggests foul drainage is to be disposed of via a septic tank. Further details of the provision of potable water and how foul sewage will be dealt are to be secured by way of condition (including the size of any septic tank or cesspool and where it will overflow to).

v. The ecological impact of the development has been assessed through appropriate survey and a scheme for any necessary mitigation and enhancement measures confirmed.

6.28 Policy DM3 of the Maidstone Borough Local Plan and paragraph 174 of the NPPF (2021) directs the planning system to contribute to and enhance the natural and local environment. The application site surface is currently road plantings and shrubland with little ecology value and in this context, it is concluded that there is no requirement for an ecological survey.

6.29 The Parish Council refer to the earlier application under reference 09/0208 which was for land to the south east and north east of the current application site. Application 09/0208 was supported by a 'Great Crested Newt (GCN) scoping Survey carried out by ASW Ecology. The survey found:

- Nearest GCN populations are at least 2000 metres from the site (500 metres the critical distance).
- Current habitat on the site is not newt friendly and therefore even if newts were in the immediate area, they would not be expected to be present on this site.
- Notwithstanding the above precautionary approach to the construction work is recommended such as removing existing rubble piles.
- Application would result in a net gain of wildlife habitat.

6.30 The Parish Council refer to the Ecology Survey submitted in support of application under reference 17/502714/Full. The Parish Council repeat their criticism of the survey timing made in the Parish Council response to application 17/502714/Full.

6.31 The committee report for 17/502714/Full advises "*Due to the site being intensively managed KCC (Ecology) are satisfied that the submitted report provides a good understanding of the ecological interest of the site. No additional surveys are required but if planning permission is granted there is the opportunity to enhance the site for biodiversity and this can be secured by condition*". There was in addition no objection from Natural England. It is also highlighted that the permission under 17/502714/Full has been superseded by 23/500383/FULL (Considered at committee 20 July 2023) where no ecology issues were found.

6.32 The applicant has highlighted that enhancement through bird and bat boxes can be used to achieve biodiversity net gain and a planning condition is recommended to achieve this. A planning condition is also recommended to seek the habitat grassland area shown on the submitted plans and the native hedge and post and rail site boundaries. On this basis, the proposal would accord with policies DM3 and DM15 of the Maidstone Borough Local Plan (2017), and the NPPF (2023). These

policies jointly direct the planning system to contribute to and enhance the natural and local environment.

Need and supply of sites.

6.33 Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. The Council has chosen to separate the matter of Gypsy and Traveller policy from the Local Plan Review and is pursuing a separate DPD on this matter. This Gypsy, Traveller and Travelling Showpeople DPD is yet to go out to first stage consultation.

6.34 The updated Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA), which forms part of the evidence base for the Gypsy, Traveller and Travelling Showpeople DPD, was published in September 2023. It provides the evidence of the current and future need for gypsy, traveller and travelling showpeople in the borough for the Local Plan Review until 2040.

6.35 The GTAA published in 2023 outlines a need for 340 pitches in Maidstone that met the planning definition between 2023 and 2040, broken down as follows:

	2023-27	2028-32	2033-37	2038-40	2023-40
Gypsy & Traveller Pitches	205	48	53	34	340

6.36 In addition, the DPD will be informed by the outcome of a Pitch Deliverability Assessment and a targeted Call for Sites exercise to identify potential new sites so the needs of the community can be adequately, and appropriately addressed and appropriate engagement can take place. The LPR Call for Sites exercise ran from February and March 2022 and February and March 2023, with the aim of comprehensively addressing the needs of the community appropriately. The Gypsy, Traveller and Travelling Showpeople DPD is at its early stages and is not due to be adopted until 2025 at the earliest.

6.37 The PPTS requires Local Plans to identify a supply of 5 years’ worth of deliverable sites against the Plan’s pitch target. The Council’s 5-year supply comprises:

- unimplemented Local Plan 2017 (Policy GT1) allocations which are to be carried forward.
- an allowance for pitch turnover on the two public Gypsy & Traveller sites in the borough.
- a windfall allowance for pitches which will be granted planning permission in the future.

6.38 The Council are not able to provide a supply of specific deliverable sites sufficient to provide five years’ worth of sites against locally set targets. The Council’s current position is that it can demonstrate a 1.2 years’ worth of deliverable pitches. Paragraph 27 of ‘Planning policy for traveller sites (2015) states: *“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt... [or]an Area of Outstanding Natural Beauty”.*

Gypsy status

- 6.39 A judgement dated 31 October 2022, from the Court of Appeal in Smith v. SoS for Levelling Up, Housing and Communities (CA-2021-00171, 31st October 2022) concerned a planning inspector's reliance on the definition of Gypsies and Travellers in Planning Policy for Traveller Sites. This guidance was introduced by the government in August 2015.
- 6.40 The previous definition before August 2015 had been: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' education or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such*". The new definition post 2015 deleted "or permanently".
- 6.41 The SoS accepted that this indirectly discriminated against elderly and disabled Gypsies and Travellers but argued that the discrimination was justified. The appeal court judgement sets out at paragraph 66... "*the nature of the discrimination before the judge was the negative impact on those Gypsies and Travellers who had permanently ceased to travel due to old age or illness, but who lived or wanted to live in a caravan. This discrimination was inextricably linked to their ethnic identity*". at paragraph 139 "... *the effect of the relevant exclusion was – as the Secretary of State has conceded – discriminatory, and that, on the evidence before the court in these proceedings, there was no proper justification for that discrimination...*"
- 6.42 Permission is sought on the basis that the site is required to satisfy an identified need for one extended Gypsy and Traveller family. The agent has submitted that the intended occupiers of the site qualify for Gypsy and Traveller status for planning purposes. The applicant is a named person in the application at the Hawthorns, granted consent under MA/09/0208. It is stated the applicant of the current application wishes to live near family members at the Hawthorn site, due to health considerations of those residing on the site, which has been evidenced in previous applications. It is common for several generations of the same family to live on one plot, or on adjacent plots, and this would be the case here.
- 6.43 It is understood the applicant and their family have not ceased travelling for any reason and often travels over the south east and East Anglia for economic purposes, often independently, but also as a group. Additionally, there is an obvious need for schooling and a structured family life.
- 6.44 Based on the evidence available it can be reasonably concluded that the intended occupants are of Gypsy heritage and are from the travelling community. A condition is recommended to ensure that the site shall not be used as a caravan site by any persons other than Gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.
- 6.45 In awarding costs against the Council as part of a recent appeal on this issue at Pear Paddock the appeal Inspector sets out: "*The Council's second reason for refusal complains that the appellants (then the applicants) have not demonstrated that the proposed site occupants are Gypsies or Travellers. Yet there is nothing in the relevant policy that requires a personal demonstration of need or ethnic identity. It is not as though any housebuilder is required to tell the LPA who exactly is intended to live in the houses s/he proposes to build; concomitantly, there is no such requirement here*". With this background and the common use of planning conditions to restrict occupation of relevant sites to Gypsies or Travellers, the refusal of planning permission on the grounds that Gypsy status has not been proven would be unreasonable.

Residential amenity

- 6.46 Policy DM1 states that proposals will be permitted where they “...*respect the amenities of occupiers of neighbouring properties...by ensuring that development is not exposed to, excessive noise, activity, 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*”.
- 6.47 The proposal a small site wedged between Hawthorn Farm, an allocated as a Gypsy and Traveller site for a total of 5 pitches in accordance with Policy GT1(15) of the Maidstone Borough Local Plan and recently approved Gypsy and Traveller site at Land West of The Hawthorns.
- 6.48 The proposal would maintain acceptable separation distances from existing mobile homes and neighbouring properties, and this will avoid any adverse effect in terms of overshadowing, loss of light, outlook, or privacy.
- 6.49 The closest ‘immediate neighbours’ (house) as highlighted by the Parish Council are separated from the application site by a distance of circa 140 metres to the south east. This distance includes the adjacent allocated Gypsy and Traveller site which is closer to these neighbours.
- 6.50 The proposal would retain the existing access point and would provide areas of soft landscaping, areas of grassland, new hedging and biodiversity areas including several native fruit trees, as such, there would be sufficient amenity space for the future occupiers.
- 6.51 The proposals are acceptable in terms of maintaining the living conditions of neighbouring occupiers and providing adequate amenities for future occupiers of the proposed dwelling. The proposal is in accordance with policy DM1 of the Maidstone Borough Local Plan and LPRQ&D7 of the emerging Draft Local Plan.
- 6.52 The Planning Policy for Traveller Sites 2015 (PPTS) advises “*When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community*” (paragraph 14). The application ‘site’ includes 3 Gypsy and Traveller pitches (3 mobile homes and 3 touring caravans) and when added to the nearby sites listed in this report there will be a total of 10 pitches (10 mobile homes and 10 touring caravans) it is not considered that the scale of the application ‘site’ itself or taken with nearby sites would dominate the nearest settled community of Ulcombe.

PUBLIC SECTOR EQUALITY DUTY

- 6.53 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home.
- 6.54 Race is one of the protected characteristics under the Equality Act and ethnic origin is one of the things relating to race. Romany Gypsies and Irish Travellers are protected against race discrimination because they are ethnic groups under the Equality Act. This application has been considered with regard to the protected characteristics of the applicant and the gypsies and travellers who occupy the caravans. I am satisfied that the requirements of the Public Sector Equality Duty have been met and it is considered that the application proposals would not undermine objectives of the Duty.

- 6.55 Due regard has been had to the Public Sector Equality Duty contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the Public Sector Equality Duty.

7. CONCLUSION

- 7.01 Local Plan policy DM15 allows for Gypsy and Traveller accommodation in the countryside provided certain criteria are met; and policies SP17 and DM30 allow for development provided it does not result in harm to the character and appearance of the area. The GTAA published in 2023 outlines a need for 340 pitches in Maidstone and the Council's current position is that it can demonstrate a 1.2 years' worth of deliverable pitches at 1st April 2023.

- 7.02 The proposal has been assessed in relation to its visual and landscape impact, highways impact, sustainability, residential amenity, and flooding / drainage and found to be acceptable. The development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. For the reasons set out above, it is recommended that permission be granted.

- 8. RECOMMENDATION – GRANT 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.

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
- Drawing no. 2023-1091-001-Survey Plan – Existing Topographical Survey
 - Drawing no. 2023-1091v1-Mobile – Example Mobile Home Plans
 - Planning Statement received on 20 September 2023
 - Drawing no. 2023-1091v1-LocBlock – Location and Block Plans received on 30 October 2023

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

- 2) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.

- 3) No more than six caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than three shall be a static caravan/mobile home) shall be stationed on the land at any time.

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

- 4) If the lawful use of the site ceases, all caravans, structures, equipment, and materials brought onto the land for the purposes hereby permitted including hardstandings and buildings shall be removed within two months from the date of the use ceasing.

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

- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land and no commercial or business activities shall take place on the land including the storage of materials.

Reason: To prevent inappropriate development; to safeguard the character and appearance of the countryside; and in the interests of residential amenity.

- 6) Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land other than those expressly authorised by this permission (as shown on the approved plans).

Reason: To prevent inappropriate development and safeguard the amenity, character, and appearance of the countryside, and in the interests of residential amenity.

- 7) The use hereby permitted shall cease and all caravans, structures, equipment, and materials brought onto the land for the purposes of such use shall be removed within 6 weeks of the date of the failure to meet any one of the requirements set out in (i) to (iv) below:

- i) Within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of:
- a) means of enclosure, which shall be rural in character such as post and wire/rail fencing (as opposed to close-boarded fencing, apart from along the north eastern boundary with the Hawthorn site) and allow for the establishment of landscaping and shall thereafter be maintained.
 - b) a delivery plan for the complete removal from the land of all existing close-boarded fencing.
 - c) extent of existing hardstanding and parking areas, including a schedule for the complete removal from the land of all hardstanding areas other than those areas to remain on the land as shown on Drawing no. 2023-1091v1-LocBlock.
 - d) the means of foul and surface water drainage at the site, along with details regarding the provision of potable water and waste disposal. These details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).
 - e) existing external lighting on the boundary of and within the site.
 - f) details of existing landscaping and details of soft landscape enhancements
 - g) details of the measures to enhance biodiversity at the site; and,
 - h) a timetable for implementation of the scheme including a) to g) with all details implemented in accordance with the agreed timetable and all details retained for the lifetime of the development.
- ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the 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.

- iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- 8) Notwithstanding the landscaping details shown on Drawing no. 2023-1091v1-LocBlock, the landscaping required by condition 7 (i) (f) shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012). The detailed landscaping drawings shall include:
- a) details of all existing trees, hedgerows and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed.
 - b) measures for the protection of retained landscaping and trees during the construction phase of the development.
 - c) details of the number, size, species, maturity, spacing and position of proposed trees and landscaping.
 - d) details of a new mixed native species hedgerow (double staggered row at 45cm spacings with 30cm between rows and minimum 45-60cm bare root stock at planting) as indicated on Drawing no. 2023-1091v1-LocBlock, consisting of species 15% Hawthorn, 70% Hazel, 5% Holly and 10% Spindle. Thereafter the hedgerows shall be maintained in perpetuity in accordance with the approved management plan.
 - e) specifically, the retention and landscape reinforcement of the existing landscape features along the south western boundary and southern / south eastern part of the site with native hedge and tree species.
 - f) a timetable of implementation of the approved scheme and
 - g) a five [5] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted).

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 9) All planting, seeding, and turfing specified in the approved landscape details shall be completed by the end of the first planting season (October to February) following its approval. Any seeding or turfing which fails to establish or any existing or proposed trees or plants which, within five years from planting 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.

- 10) 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:
- a) be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) with reference to environmental zone E1.

- b) include a layout plan with beam orientation.
- c) a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles).
- d) an ISO lux plan showing light spill.

The scheme of lighting shall be installed, maintained, and operated thereafter in accordance with the approved scheme.

Reason: To safeguard residential amenity, wildlife and to protect dark skies and prevent undue light pollution, in accordance with the maintenance of the character and quality of the countryside.

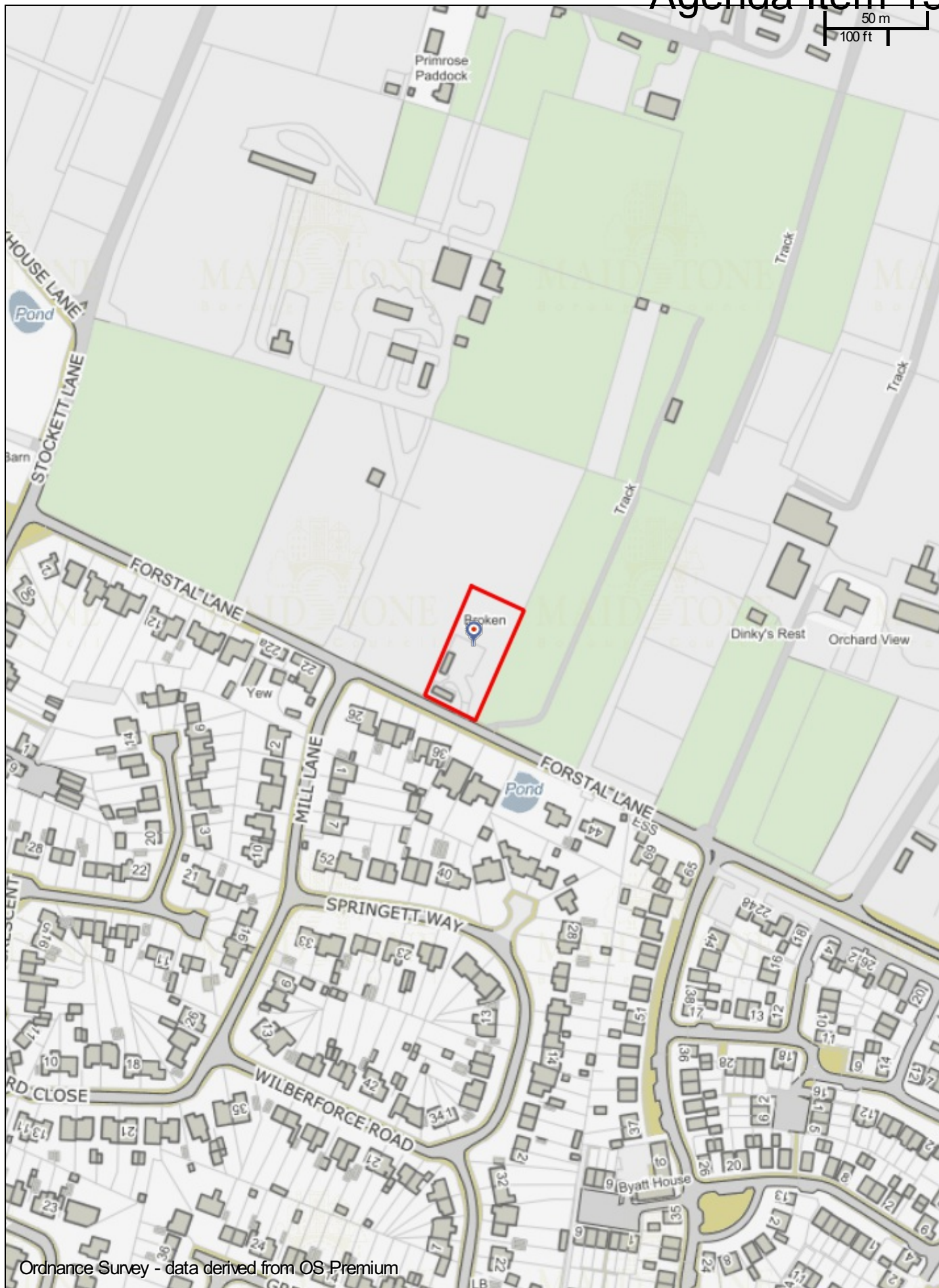
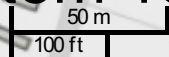
- 11) The enhancement of biodiversity on the site, required by condition 7 shall include the installation of a minimum of one bat tube on the approved mobile homes and the installation of ready-made bird and bat boxes on the site. The development shall be implemented in accordance with the approved details prior to the first occupation of the mobile homes hereby approved and all these features shall be maintained as such thereafter.

Reason: To enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- 12) All hardstanding areas shall be of permeable construction as indicated on Drawing no. 2023-1091v1-LocBlock.

Reason: In the interests of amenity.

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

23/502481/FULL Broken Tree , Forstal Lane, Coxheath, Kent, ME17 4QF

Scale: 1:2500

Printed on: 6/11/2023 at 11:19 AM by JoannaW



REPORT SUMMARY

REFERENCE NO: - 23/502481/FULL		
APPLICATION PROPOSAL: Section 73 - Application for variation of condition 3 (to allow stationing of an additional static caravan/mobile home at the site) pursuant to 19/500583/FULL for - Part retrospective and part proposed application for the material change of use of land to allow the stationing of two residential caravans and the storage of one touring caravan for use by a traveller family unit together with associated access, parking facilities, hardstandings, cesspit and landscaping (retrospective elements being the use of land for siting two residential caravans, the installation of an access and cesspit with proposed elements being revised siting of mobile homes and provision of new associated hard-standings and reduced access and parking areas).		
ADDRESS: Broken Tree, Forstal Lane Coxheath Kent ME17 4QF		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposal will comply with provisions of policy DM15 (Gypsy, Traveller and Travelling Show People Accommodation) which permits new Gypsy and Traveller and Travelling Showpeople Accommodation in the countryside where it would not result in significant harm to the landscape and rural character of the area. The development will comply with policy SP17 and DM30 of the Adopted Local Plan (2017). The proposals are acceptable in terms of maintaining the living conditions of neighbouring occupiers and providing adequate amenities for future occupiers of the proposed dwelling. There are no overriding highway safety challenges that would indicate a refusal of planning permission. The proposals would have the benefit of providing an additional pitch on an approved gypsy traveller site at a time when the borough council cannot demonstrate 5-year supply of deliverable traveller sites.		
REASON FOR REFERRAL TO COMMITTEE: Call in from Coxheath Parish Council for the reasons set out in section 4 of this report.		
WARD: Coxheath And Hunton	PARISH COUNCIL: Coxheath	APPLICANT: Mr & Mrs D Hilden AGENT: Kevin Wise Town Planning
CASE OFFICER: Francis Amekor	VALIDATION DATE: 02/06/23	DECISION DUE DATE: 25/11/23
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

17/504398/FULL Change of use of land for permanent stationing of a gypsy caravan for residential purposes and storage of a further touring caravan with the creation of new access off Forstal Lane and driveway. Refused 07.11.2017.

19/500583/FULL Part retrospective and part proposed application for the material change of use of land to allow the stationing of two residential caravans and the storage of one touring caravan for use by a traveller family unit together with associated access, parking facilities, hardstandings, cesspit and landscaping (retrospective elements being the use of land for siting two residential caravans, the installation of an access and cesspit with proposed elements being revised siting of mobile homes and provision of new associated hard-standings and reduced access and parking areas). Refused 05.04.2019. Appeal Allowed.

20/501758/SUB Submission of Details to Discharge Condition 5 (28) Site development scheme and Condition 6 (29) Landscaping subject to 19/500583/FULL APP/U2235/W/19/3236142). Approved 16.06.2020.

21/504830/FULL Construction of timber storage shed to accommodate domestic and garden items and household laundry equipment. Approved 10.11.2021.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is in the countryside and relates to an established gypsy traveller site on the north side of Forstal Lane. On the opposite (south) side of Forstal Lane residential properties of suburban character are in the Local Plan designated larger village of Coxheath. The site is in the Loose Valley Landscape of Local Value.
- 1.02 Apart from the gated entrance, mature boundary hedges screen the application site from Forstal Lane with mature boundary hedges also screening the site from surrounding countryside. Fruit orchards adjacent to the application site are also screened from the road by mature boundary hedges along the northern edge of Forstal Lane.
- 1.03 The application site currently contains two mobile homes, a touring caravan and a tractor shed arranged around an area of hardstanding. There are other gypsy traveller sites in the wider area.

2. PROPOSAL

- 2.01 The appeal decision dated 6 April 2020 granted planning permission (overturning MBC refusal of 19/500583/FULL) for two static caravans and the storage of one touring caravan. The appeal decision restricted the number of caravans to the number requested by the application (total of 3 caravans of which 2 could be statics) and restricted the location of the caravans on the site to that shown on the submitted plans.
- 2.02 The current application involves increasing the total on site from 3 to 5 caravans with one additional pitch consisting of one static and one touring caravan. The total of 5 caravans would consist of 3 statics and two touring caravans.
- 2.03 The proposed additional static would be positioned close to the western site boundary between the existing tractor shed and mobile home no.2. The position of the touring caravan would follow the alignment of existing approved mobile homes at the site. The submission indicates the additional mobile home would provide accommodation for an adult son of the current occupiers of the existing mobile homes.

3. POLICY AND OTHER CONSIDERATIONS

Development Plan: Maidstone Local Plan 2017:

- Policy SS1 – Maidstone Borough Spatial Strategy
- Policy SP17 – Countryside
- Policy DM1 – Principles of good design
- Policy DM3 – Natural environment
- Policy DM2 – Sustainable design
- Policy DM8 – External lighting
- Policy DM15 – Gypsy, Traveller and Travelling Show People Accommodation
- Policy DM23 – Parking standards
- Policy DM30 – Design principles in the countryside



Existing and proposed site plan

Emerging draft policy: Maidstone Draft Local Plan:

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time. The relevant policies are as follows:

- Policy LPRSS1- Maidstone Borough Spatial Strategy
- Policy LPRSP9- Development in the Countryside
- Policy LPRSP15- Principles of Good Design
- Policy LPRQ & D4- Design principles in the Countryside
- Policy LPRTRA4 – Parking
- Policy LPRSP10(C) - Gypsy & Traveller Site Allocations
- Policy LPRHOU 8 - Gypsy, Traveller and Travelling Show people Accommodation.

The National Planning Policy Framework -NPPF (2023)

Section 2 – Achieving Sustainable Development
Section 4 – Decision Making
Section 6 – Building a strong, competitive economy
Section 12 – Achieving well Designed Places

Supplementary Planning Documents

Maidstone Landscape Character Assessment
Landscape Character Assessment (2013) & Supplement (2012)
Landscape Capacity Study: Sensitivity Assessment (2015)
Planning Policy for Traveller Sites (2015)
Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)
Para 99 of Govt Circular (ODPM 06/2005) & Natural England Standing Advice Kent
Minerals & Waste LP (2013-30) (amended by Early Partial Review 2020)



Views of the application site looking north

4. LOCAL REPRESENTATIONS

Local residents:

1 representation received from a local resident objecting in relation to the following (summarised) issues.

- The proposal would have a detrimental effect on visual amenity.
- The additional static caravan will be visible from houses across Forstal Lane.
- The hedgerow would not sufficiently screen the caravan from public view.
- The proposals would have detrimental effect on property values.

(NB officer note: The effect of the proposals on property values is not a material planning consideration that can be taken into account in determining this application).

Coxheath Parish Council

Objection for the following reasons:

- The applicant should adhere to the conditions set out in the appeal decision.
- Removing condition 3 would not respect the scale of and would dominate the nearest settled community and would place undue pressure on the local infrastructure.
- Condition 3 is necessary to protect the character and appearance of the area.
- If the Planning Officer is minded to approve this application, the Parish Council request that it is referred to the MBC Planning Committee.

5. CONSULTATIONS

Mid Kent Environmental Health Team

5.1 Raise no objection, subject to condition on foul sewage.

KCC Minerals and Waste

5.2 Raise no objection.

KCC Highways and Transport

5.3 Raise no objections.

6. APPRAISAL

The key issues are:

- Countryside location, policies SP17 and DM15
- Need and supply of sites.
- Residential amenity

Countryside location, policies SP17 and DM15

6.01 The application site is in the countryside and the starting point for assessing all applications in the countryside is Local Plan policy SP17. Policy SP17 states that development proposals in the countryside will only be permitted where:
a) there is no harm to local character and appearance, and
b) they accord with other Local Plan policies

6.02 Policy SP17 does not specify an acceptable level of harm to local character and appearance and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17.

6.03 In certain circumstances where there is locational need for development (equestrian, rural worker dwelling, agricultural buildings etc) other Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall.

6.04 In this case, policy DM15 accepts that new Gypsy and Traveller accommodation will be in the countryside and lists 5 criteria that planning applications will be assessed against. These criteria are considered below:

i. Local services, in particular school, health, and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.

6.05 The application site is on the opposite side of Forstal Lane to the Coxheath larger village settlement boundary with Coxheath Primary School circa 10 minutes walk from the site along pavements with streetlighting. Coxheath Londis is circa 12 minutes walk with Doctor's surgeries available similar distances from the application site.

ii. The development would not result in significant harm to the landscape and rural character of the area. Impact on these aspects will be assessed with particular regard to: a. Local landscape character; b. Cumulative effect - the landscape impact arising as a result of the development in combination with existing lawful caravans; and c. Existing landscape features - development is well screened by existing landscape features and there is a reasonable prospect of such features' long term retention; Additional planting should be used to supplement existing

landscaping but should not be the sole means of mitigating the impact of the development.

- 6.06 The application site is in Local Plan designated Loose Valley Landscape of Local Value. The Local Plan advises "*Development proposals within landscapes of local value should, through their siting, scale, mass, materials and design, seek to contribute positively to the conservation and enhancement of the protected landscape*".
- 6.07 In the Maidstone Landscape Character Assessment, the application site is in the Loose Greensand Orchards and Pasture (27-7) detailed character area. Key characteristics include, large areas of traditional orchards, farm buildings (modern and traditional), native hedgerows and tree lines, Hamlet Wood coppice, Pimp's Court Farm Centre and dwellings, network of farm tracks, sunken lanes with earth banks and undulating landform. The overall landscape sensitivity of the area (Farleigh Fruit Belt) is assessed as high, indicating that the area is sensitive to change.



View of the extent of hedgerow along Forstal Lane

- 6.08 The application site due to the existing boundary hedging is enclosed and benefits from screening in views from Forstal Lane. The existing boundary trees and hedgerows will be retained as part of the development. The additional mobile home taken cumulatively with the existing mobile homes would have a relatively diminutive presence in the wider landscape and would not have any significant adverse impact on the visual amenities of the countryside.
- 6.09 A local resident has stated that the mobile home would be visible from Forstal Lane. Whilst there are glimpses of caravans from Forstal Lane, with the site layout and location of the access, the views into the site are restricted and would not have a harmful effect on the landscape.
- 6.10 The proposal would not result in significant harm to the landscape and rural character of the area. The development is well screened by existing landscape features and there is a reasonable prospect of such features' long-term retention. The proposals would conserve the valued landscape as required by Policy SP17 and DM15 of the Maidstone Borough Local Plan (2017) the Maidstone Landscape Character Assessment and relevant sections of the NPPF (2021).

iii. The site can be safely accessed to and from the highway by all vehicles using the site on a regular basis.

- 6.11 Policy DM23 of the Local Plan sets out the parking standards for the Borough. The policy adopts a flexible approach to minimum and maximum parking standards to

reflect local circumstances and the availability of alternative modes of transport to the private car.

6.12 The submitted site layout plan shows the hardstanding area within the site is adequate to meet the demands of existing and proposed mobile homes. There is sufficient turning space within the site for vehicles to enter and leave the site in a forward gear. The proposals would comply with the standards in policy DM23. The submission indicates access to the proposed development will be via the existing vehicular access from Forstal Lane. The access is of a suitable standard.

6.13 On traffic generation, the proposal has the potential to generate additional movements to and from the site. Any increase in the traffic movements will not be significant enough to create congestion and highway safety issues. KCC Highways and Transport were consulted and have confirmed they raise no objection to the proposals.

6.14 The application involves a new static caravan and a touring caravan on an existing gypsy and traveller site using an existing access. Highway safety issues were not raised as part of either the refusal of the original application (19/500583/FULL) or as part of the subsequent appeal. The site access is acceptable in relation to the additional trips that would be generated by the additional caravans.

iv. The site is not located in an area at risk from flooding (zones 3a and 3b)

6.15 The application site is not located in an area at risk from flooding (zones 3a and 3b).

v. The ecological impact of the development has been assessed through appropriate survey and a scheme for any necessary mitigation and enhancement measures confirmed.

6.16 Policy DM3 of the Maidstone Borough Local Plan and paragraph 174 of the NPPF (2021) directs the planning system to contribute to and enhance the natural and local environment.

6.17 The vegetation along the site boundaries constitutes valuable elements in terms of biodiversity of the site, as well as contributing towards the natural appearance of the site and surrounding area. The grounds on which the additional mobile home is proposed comprises partly of intensively managed lawn and existing area of patio and unlikely to have any biodiversity interest.

6.18 On this basis, the proposal would accord with Policies DM3 of the Maidstone Borough Local Plan (2017), and paragraph 174 of the NPPF (2021). These policies jointly direct the planning system to contribute to and enhance the natural and local environment.

Need and supply of sites.

6.19 Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. The Council has chosen to separate the matter of Gypsy and Traveller policy from the Local Plan Review and is pursuing a separate DPD on this matter. This Gypsy, Traveller and Travelling Showpeople DPD is yet to go out to first stage consultation.

6.20 The updated Gypsy, Traveller, and Travelling Showpeople Accommodation Assessment (GTAA), which forms part of the evidence base for the Gypsy, Traveller and Travelling Showpeople DPD, was published in September 2023. It provides the evidence of the current and future need for gypsy, traveller and travelling showpeople in the borough for the Local Plan Review until 2040.

- 6.21 The GTAA published in 2023 outlines a need for 340 pitches in Maidstone that met the planning definition between 2023 and 2040, broken down as follows:

	2023-27	2028-32	2033-37	2038-40	2023-40
Gypsy & Traveller Pitches	205	48	53	34	340

- 6.22 In addition, the DPD will be informed by the outcome of a Pitch Deliverability Assessment and a targeted Call for Sites exercise to identify potential new sites so the needs of the community can be adequately, and appropriately addressed and appropriate engagement can take place. The LPR Call for Sites exercise ran from February and March 2022 and February and March 2023, with the aim of comprehensively addressing the needs of the community appropriately. The Gypsy, Traveller and Travelling Showpeople DPD is at its early stages and is not due to be adopted until 2025 at the earliest.
- 6.23 The Planning Policy for Traveller Sites (2015) requires Local Plans to identify a supply of 5 years' worth of deliverable sites against the Plan's pitch target. The Council's 5-year supply comprises:
- unimplemented Local Plan 2017 (Policy GT1) allocations which are to be carried forward.
 - an allowance for pitch turnover on the two public Gypsy & Traveller sites in the borough.
 - a windfall allowance for pitches which will be granted planning permission in the future.
- 6.24 The Council are not able to provide a supply of specific deliverable sites sufficient to provide five years' worth of sites against locally set targets. The Council's current position is that it can demonstrate a 1.2 years' worth of deliverable pitches at 1st April 2023. Paragraph 27 of 'Planning policy for traveller sites (2015) states: "If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt... [or]an Area of Outstanding Natural Beauty.

Gypsy status

- 6.25 A judgement dated 31 October 2022, from the Court of Appeal in Smith v. SoS for Levelling Up, Housing and Communities (CA-2021-00171, 31st October 2022) concerned a planning inspector's reliance on the definition of Gypsies and Travellers in Planning Policy for Traveller Sites. This guidance was introduced by the government in August 2015.
- 6.26 The previous definition before August 2015 had been: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' education or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such*". The new definition post 2015 deleted "or permanently".
- 6.27 The SoS accepted that this indirectly discriminated against elderly and disabled Gypsies and Travellers but argued that the discrimination was justified. The appeal court judgement sets out 66... "the nature of the discrimination before the judge was the negative impact on those Gypsies and Travellers who had permanently ceased to travel due to old age or illness, but who lived or wanted to live in a

caravan. This discrimination was inextricably linked to their ethnic identity". 139
"... the effect of the relevant exclusion was – as the Secretary of State has conceded – discriminatory, and that, on the evidence before the court in these proceedings, there was no proper justification for that discrimination..."

- 6.28 Permission is sought on the basis that the site is required to satisfy an identified need for one extended Gypsy and Traveller family. The agent has submitted that the intended occupiers of the site qualify for Gypsy and Traveller status for planning purposes. The additional static mobile home at this permitted traveller site is to provide a home for the applicants' son, who is now an adult and in the process of settling down with his partner. It is common for several generations of the same family to live on one plot, or on adjacent plots, and this would be the case here.
- 6.29 Based on the evidence available it can be reasonably concluded that the intended occupants are of Gypsy heritage and are from the travelling community. A condition is recommended to ensure that the site shall not be used as a caravan site by any persons other than Gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.
- 6.30 In awarding costs against the Council as part of a recent appeal on this issue (Pear Paddock) the appeal Inspector sets out: "*The Council's second reason for refusal complains that the appellants (then the applicants) have not demonstrated that the proposed site occupants are Gypsies or Travellers. Yet there is nothing in the relevant policy that requires a personal demonstration of need or ethnic identity. It is not as though any housebuilder is required to tell the LPA who exactly is intended to live in the houses s/he proposes to build; concomitantly, there is no such requirement here*". With this background and the availability and common use of planning conditions to restrict occupation to Gypsies or Travellers, the refusal of planning permission on the grounds that Gypsies or Travellers status has not been proven pre decision would generally be unreasonable.

Residential amenity

- 6.31 Policy DM1 of the Maidstone Borough Local Plan requires development to secure high quality design and a good standard of amenity for all existing and future occupants of buildings.
- 6.32 The proposed mobile home would maintain acceptable separation distances from existing mobile homes and neighbouring properties, and this will avoid any adverse effect in terms of overshadowing. The mobile home will have no impact on the amenity or outlook of residents. All the existing hedgerows and trees will be retained as part of the proposal and in view of the strong enclosure no further landscaping is necessary in this case.
- 6.33 Policy LPRQ&D7 of the emerging draft Local Plan sets out the amenity space standards for new houses. The policy requires outdoor amenity space for a house this size must be sufficient to provide sufficient space for day to day activities and the current proposal meets these standards.
- 6.34 The proposals are acceptable in terms of maintaining the living conditions of neighbouring occupiers and providing adequate amenities for future occupiers of the proposed dwelling. The proposal is in accordance with policy DM1 of the Maidstone Borough Local Plan and LPRQ&D7 of the Emerging Draft Local Plan.

PUBLIC SECTOR EQUALITY DUTY

- 6.35 In considering this application due regard has been had to the Public Sector Equality Duty (PSED), as set out in Section 149 of the Equality Act 2010 in particular with regard to:
- unimplemented Local Plan 2017 (Policy GT1) allocations which are to be carried forward.
 - an allowance for pitch turnover on the two public Gypsy & Traveller sites in the borough.
 - eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act.
 - advance equality of opportunity between persons who share protected characteristics and persons who do not share it; and
 - foster good relations between persons who share protected characteristic and persons who do not share it.
- 6.36 Race is one of the protected characteristics under the Equality Act and ethnic origin is one of the things relating to race. Romany Gypsies and Irish Travellers are protected against race discrimination because they are ethnic groups under the Equality Act. This application has been considered with regard to the protected characteristics of the applicant and the gypsies and travellers who occupy the caravans. I am satisfied that the requirements of the PSED have been met and it is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The National Planning Policy Framework (NPPF) reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which requires by law that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.
- 7.02 The proposal will comply with provisions of policy DM15 (Gypsy, Traveller and Travelling Show People Accommodation) which permits new Gypsy and Traveller and Travelling Showpeople Accommodation in the countryside where it would not result in significant harm to the landscape and rural character of the area. The development will comply with policy SP17 and DM30 of the Adopted Local Plan (2017).
- 7.03 The proposals are acceptable in terms of maintaining the living conditions of neighbouring occupiers and providing adequate amenities for future occupiers of the proposed dwelling. There are no overriding highway safety challenges that would indicate a refusal of planning permission.
- 7.04 Overall, the proposals would have the benefit of providing an additional pitch on an approved gypsy traveller site at a time when the borough council cannot demonstrate 5-year supply of deliverable traveller sites.

8. 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.

- 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) No development shall take place other than in accordance with the following approved plans:
Application Form
Drawing Number; KWTP.02 (Site Location Plan)
Drawing Number: KWTP.01 (Existing and Proposed Block Plans)

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

- 3) The site shall not be occupied by any persons other than Gypsies and Travellers as defined as Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: The site is in an area where residential development would not normally be permitted and to protect the visual amenities of the surrounding countryside.

- 4) No more than five caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than three shall be a static caravan or mobile home, and no further caravans shall be placed at any time anywhere within the site. The static caravans or mobile homes shall be stationed on the site only in the position shown on Drawing No. KWTP.01 (Existing and Proposed Block Plans).

Reason: To prevent overcrowding of the site in the interest of the visual amenities of the surrounding countryside.

- 5) No commercial activities shall take place on the land at any time, including the storage of materials. No vehicles over 3.5 tonnes shall be stationed, stored, or parked on the site and not more than four vehicles shall be stationed, stored or permanently parked on the site at any one time.

Reason: In the interest of the visual amenities of the surrounding countryside.

- 6) Details on the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal must be submitted to and approved by the Local Planning Authority prior to occupation of the site. These details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation). If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Reason: To ensure adequate sewage disposal arrangements for the development.

- 7) 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 Professionals Guidance Notes for the Reduction of Obtrusive Light, GN01, dated 2011 (and any subsequent revisions) (Environmental Zone E1), and follow the recommendations within the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'. The submitted details 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, protected species and in the interests of residential amenity.

- 8) Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land other than those expressly authorised by this permission.

Reason: In the interest of the visual amenities of the surrounding countryside.

- 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 16



Ordnance Survey - data derived from OS Premium

REPORT SUMMARY

REFERENCE NO: - 23/503722/FULL		
APPLICATION PROPOSAL: Demolition of existing dayroom and erection of a replacement dayroom together with associated landscaping (Resubmission 22/505594/FULL).		
ADDRESS: Golden Oaks Pye Corner Ulcombe Kent ME17 1ED		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: Policy SP17 permits replacement buildings in the countryside where they are proportionate in scale and would not compromise the intrinsic character of the site including its sense of spaciousness. Owing to the scale, location, and design of the replacement dayroom, it would not represent a harmful addition to the site. The proposal would conserve the character and appearance of the countryside and would be ancillary to the existing residential accommodation at the site.		
REASON FOR REFERRAL TO COMMITTEE: Call in from Ulcombe Parish Council reasons for the reasons in section 4 of this report.		
WARD: Headcorn	PARISH COUNCIL: Ulcombe	APPLICANT: Mr L Gilham AGENT: Graham Simpkin Planning Ltd
CASE OFFICER: Francis Amekor	VALIDATION DATE: 11/08/23	DECISION DUE DATE: 24/11/23
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

18/506206/FULL Removal of existing outbuilding and erection of a single storey pitched roof outbuilding for use ancillary to the domestic occupation of the site. Approved 06.03.2019.

20/502291/FULL Minor material amendment to condition 2 (approved plans) and variation of condition 6 (waste and foul drainage) to application 18/506206/FULL for removal of existing outbuilding and erection of a single storey pitched roof outbuilding for use ancillary to the domestic occupation of the site. Approved 16.10.2020.

22/505594/FULL Erection of a replacement dayroom. Refused 01.06.2023. This application was refused for the following reasons.

"The proposed dayroom would result in a level of accommodation which is not ancillary nor essential to serve the occupants of the site, and due to the proposed scale, siting and design of the building would cause adverse harm to the character and appearance of the countryside hereabouts. The proposal would therefore represent unacceptable development, consolidating built form in this sensitive countryside location, contrary to policies SS1, SP17, DM1, DM15 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); and the National Planning Policy Framework (2021)".

23/502991/PAPL Further advice sought on the above refusal of planning permission for the erection of a replacement dayroom (22/505594/FULL). The advice concluded that "...it

is likely that officers will be able to recommend that planning permission is granted for a future planning application based on the following changes:

- The dayroom building footprint is reduced to maximum of 90 square metres.
- The dayroom building is moved 4-5 metres north away from the front boundary.
- Landscaping enhancement is set out to strengthen the front boundary and the existing hedge.

MAIN REPORT

1. DESCRIPTION OF SITE

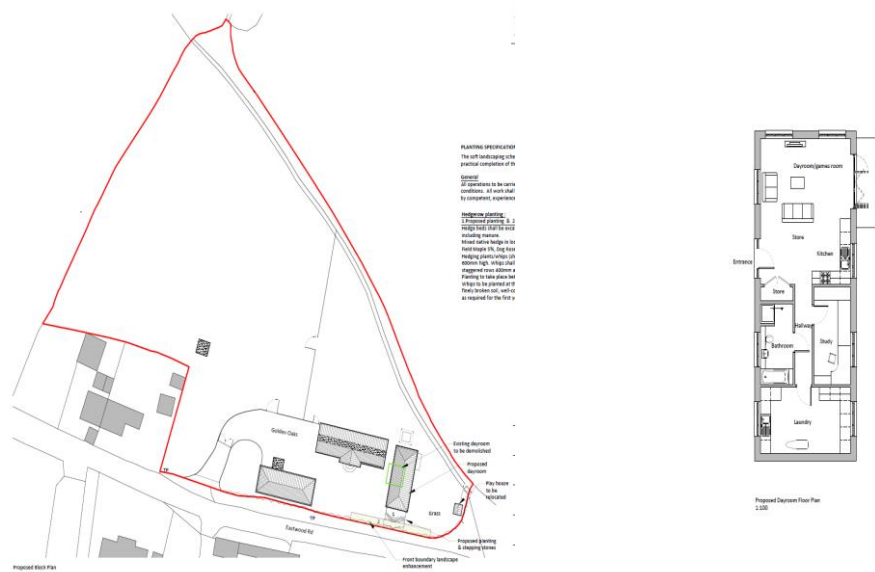
- 1.01 The application relates to an established gypsy traveller site located on the north side of Eastwood Road, approximately 250 metres east of Ulcombe village. The site accommodates an existing static mobile home, a stable building, and a dayroom. There is an area of hardstanding within the site and hedgerows to the southern, eastern, and northern site boundaries. The remainder of the site consists of an 0.44-hectare open field located to the north of the group of buildings.
- 1.02 The Maidstone Landscape Character Assessment identifies the site as falling within the Ulcombe Mixed Farmlands landscape character area which is found to be in very good condition with a very high sensitivity, with guidelines to conserve. The surrounding landscape is rural and characterised by traditional agricultural field pattern, scattered semi-wooded stretches, ponds and enclosed arable fields, orchards and polytunnels. Access to the site from Eastwood Road is gained via a gated entrance.
- 1.03 A public right of way runs from Eastwood Way adjacent to the north east application site boundary.



Aerial photo showing dayroom location.

2. PROPOSAL

- 2.01 The application is a resubmission of a previous application under reference number 22/505594/FULL for demolition of an existing dayroom building positioned to the east of the main static caravan, and its replacement with a larger day room.
- 2.02 The earlier application was refused on the basis that the accommodation provided would not be ancillary or essential to serve the occupants of the existing planning unit, and that the scale, siting, and design of the building would cause adverse harm to the character and appearance of the countryside.
- 2.03 The dimensions of the previously refused dayroom were 15 metres long, 8 metres wide, 4 metres above ground level at the roof ridge and eaves at 2.5 metres. This dayroom occupied a floor area of approximately 120m².
- 2.04 The dimensions of the revised dayroom are 14.5 metres long, 6 metres wide, 4 metres above ground level at the roof ridge and eaves at 2.5 metres. This dayroom would occupy a floor area of approximately 90m².
- 2.05 The dayroom as currently proposed has been relocated further away from the front boundary when compared to the previously refused application and has a smaller footprint. The current proposal also includes landscaping enhancement between the dayroom and the front boundary. The revised proposal includes the changes recommended by officers as part of the pre application advice that is outlined above.



Proposed block and floor plans.

3. POLICY AND OTHER CONSIDERATIONS

Development Plan: Maidstone Local Plan 2017:

- Policy SS1 – Maidstone Borough Spatial Strategy
- Policy SP17 – Countryside
- Policy DM1 – Principles of good design
- Policy DM3 – Natural environment
- Policy DM2 – Sustainable design
- Policy DM8 – External lighting
- Policy DM15 – Gypsy, Traveller, and Travelling Show People Accommodation
- Policy DM23 – Parking standards
- Policy DM30 – Design principles in the countryside

Emerging draft policy: Maidstone Draft Local Plan:

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time. The relevant policies are as follows:

Policy LPRSS1- Maidstone Borough Spatial Strategy
Policy LPRSP9- Development in the Countryside
Policy LPRSP15- Principles of Good Design
Policy LPRQ & D4- Design principles in the Countryside
Policy LPRTRA4 – Parking
Policy LPRSP10(C) - Gypsy & Traveller Site Allocations
Policy LPRHOU 8 - Gypsy, Traveller and Travelling Show people Accommodation

The National Planning Policy Framework -NPPF (2023)

Section 2 – Achieving Sustainable Development
Section 4 – Decision Making
Section 6 – Building a strong, competitive economy
Section 12 – Achieving well Designed Places

Supplementary Planning Document

Maidstone Landscape Character Assessment
Landscape Character Assessment (2013) & Supplement (2012)
Landscape Capacity Study: Sensitivity Assessment (2015)
Planning Policy for Traveller Sites (2015)
Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)
Para 99 of Govt Circular (ODPM 06/2005) & Natural England Standing Advice

4. LOCAL REPRESENTATIONS

Local residents:

4.01 No response to neighbour consultation.

Ulcombe Parish Council:

4.02 Objection on the following summarised grounds:

- Application contrary to local plan policies
- Unacceptable development as due to its size the dayroom would be unattractive in the open countryside.
- Replacement dayroom is nearly four times the size of the existing dayroom.
- The previous grounds for refusal have not been overcome.
- If officers are minded to approve requests that this application be referred to the MBC Planning Committee.

5. CONSULTATIONS

KCC Public Rights of Way

Raise no objection.

6. APPRAISAL

The key issues are:

- Countryside impact - policies SP17 and DM15
- Level of accommodation
- Residential amenity

Countryside impact - policies SP17 and DM15

- 6.01 The application site is in the countryside and the starting point for assessing all applications in the countryside is Local Plan Policy SP17. Policy SP17 states that development proposals in the countryside will only be permitted where:
a) there is no harm to local character and appearance, and
b) they accord with other Local Plan policies.
- 6.02 Policy SP17 does not specify an acceptable level of harm to local character and appearance and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17.
- 6.03 In certain circumstances where there is locational need for development (equestrian, rural worker dwelling, agricultural buildings etc) other Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall.
- 6.04 In this case, policy DM15 accepts that new Gypsy and Traveller accommodation will be in the countryside and lists 5 criteria that planning applications will be assessed against. As the current application relates to an existing Gypsy and Traveller site, the following criteria in DM15 is relevant.
- DM15 ii. The development would not result in significant harm to the landscape and rural character of the area. Impact on these aspects will be assessed with particular regard to: a. Local landscape character; b. Cumulative effect - the landscape impact arising as a result of the development in combination with existing lawful caravans; and c. Existing landscape features - development is well screened by existing landscape features and there is a reasonable prospect of such features' long term retention; Additional planting should be used to supplement existing landscaping but should not be the sole means of mitigating the impact of the development.
- 6.05 The Maidstone Landscape Character Assessment identifies the site as falling within the Ulcombe Mixed Farmlands landscape character area which is found to be in very good condition with a very high sensitivity, with guidelines to conserve. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 6.06 The replacement dayroom would have a traditional appearance that would reflect the character of its surroundings. It is accepted that the footprint of the replacement dayroom is larger than the existing dayroom. It is also highlighted that the existing dayroom is significantly smaller than others found acceptable on sites across the borough and that the size of the dayroom currently proposed is comparable to the size of other dayrooms across the borough.
- 6.07 The proposed dayroom is in proximity to existing buildings and has been moved away from the front boundary as part of this revised proposal. The scale of the

building is in keeping with nearby buildings and the site generally. There is existing screening to the application site and the submitted plans show landscape enhancement between the building and the site boundary. It is recommended that this landscaping is secured through a planning condition.

- 6.08 With reference to DM15 the proposal will not result in significant harm to the landscape and rural character of the area. With the backdrop of woodland to the west, the dayroom will be screened by existing boundary treatments and additional planting is proposed to supplement existing landscaping.
- 6.09 The proposed dayroom taken with other buildings at the site would not cumulatively be harmful to the character of the wider landscape. In accordance with policies DM1 and DM30, the type, siting, materials, design, mass, and scale of the dayroom would maintain and respond positively to local distinctiveness.
- 6.10 The proposed dayroom would result in some harm to local character and appearance, however with reference to the two parts of policy SP17, the proposal is in accordance with policies DM1, DM15 and DM30 of the Maidstone Borough Local Plan, and paragraph 174 of the NPPF (2023) which jointly require development to respect and complement the local character and avoid harm to visual amenity.

Level of accommodation

- 6.11 Material consideration in this case relates to whether the level of accommodation provided in this current scheme would be ancillary or essential to serve the occupants of the existing planning unit, and secondly the effect on the character and appearance of the site and surrounding countryside.
- 6.12 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide under the Housing Act (2004). A dayroom building is usually necessary to provide access to basic amenities and services (such as a hot and cold-water supply; washroom; kitchen/dining area; and electricity supply). However, such a building must still appear subordinate and ancillary to the main living accommodation at a site.
- 6.13 In this instance, the proposed dayroom would occupy a floor area of approximately 90m². The building would also be sufficiently subordinate to the 160m² accommodation currently on site. The submitted floor plan for the dayroom includes uses considered ancillary to the residential use of the site.
- 6.14 On this basis, the level of accommodation provided in the replacement dayroom is ancillary accommodation necessary to serve the existing static mobile home. Given these factors, the replacement dayroom building would represent a subservient amenity building and a sensitive addition to a site in a countryside location.

Residential amenity

- 6.15 Policy DM1 of the Maidstone Borough Local Plan requires that development should respect the amenities of occupiers of neighbouring properties by ensuring that development does not result in 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.
- 6.16 The closest neighbouring residential properties are Rose Cottage to the west and Vale Beck to the south- west, as well as the stables to the south. These dwellings are approximately 50 metres away from the application site, a separation distance is sufficient to prevent any adverse amenity effects with regards to noise, sunlight, daylight, or outlook.

- 6.17 The plans and application form do not indicate there is an intention to install outside lighting. Given the location of the site a condition is recommended requiring details of external lighting associated with the dayroom is submitted for prior approval by the Council.
- 6.18 Given the above, the proposal is in accordance with the requirements of policy DM1 of the Local Plan.

PUBLIC SECTOR EQUALITY DUTY

- 6.19 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home.
- 6.20 Race is one of the protected characteristics under the Equality Act and ethnic origin is one of the things relating to race. Romany Gypsies and Irish Travellers are protected against race discrimination because they are ethnic groups under the Equality Act. This application has been considered with regard to the protected characteristics of the applicant and the gypsies and travellers who occupy the caravans. I am satisfied that the requirements of the PSED have been met and it is considered that the application proposals would not undermine objectives of the Duty.
- 6.21 Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.

7. CONCLUSION

- 7.01 In summary, policy SP17 permits development in the countryside where a) there is no harm to local character and appearance, and b) they accord with other Local Plan policies. Policy SP17 does not specify an acceptable level of harm to local character and appearance and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17.
- 7.02 In certain circumstances where there is locational need for development (equestrian, rural worker dwelling, agricultural buildings etc) other Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall.
- 7.03 In this case, policy DM15 accepts that new Gypsy and Traveller accommodation will be in the countryside and lists criteria against which planning applications will be assessed. The replacement dayroom is proportionate in scale and would not compromise the intrinsic character of the site. With the scale and location of the replacement dayroom, it would not represent a harmful addition to the site. It would maintain the character and appearance of the countryside and would be ancillary to the existing residential accommodation.
- 7.04 The proposals would not conflict with the requirements of Policy DM1 of the Maidstone Borough Local Plan Local Plan seeking protection of residential amenity for all existing and future occupiers of buildings. On this basis, the proposals overall would comply with policies SS1, SP17, DM1, DM15 and DM30 of the Maidstone Local Plan (2017), the Maidstone Landscape Character Assessment and Supplement (2012) and the National Planning Policy Framework (2023).

8. RECOMMENDATION – GRANT 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.

- 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 shall be carried out in accordance with the following approved plans:

Application Form

Drawing Number: 01 (Site Location Plan)

Drawing Number; 02 (Existing Block Plan)

Drawing Number: 03 (Existing Floor Plan and Elevations)

Drawing Number: 04 (Proposed Block Plan)

Drawing Number: 05 (Proposed Floor Plan)

Drawing Number: 06 (Proposed Elevations)

Planning Statement

Reason: To ensure a satisfactory appearance to the development and to prevent harm to the surrounding countryside.

- 3) All external facing materials shall accord with the plans and application details hereby approved.

Reason: To ensure that the development does not harm the character and appearance of the area or visual amenity of the locality.

- 4) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.

- 5) Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land other than those expressly authorised by this permission (as shown on the approved plans).

Reason: To prevent inappropriate development and safeguard the amenity, character, and appearance of the countryside; and in the interests of residential amenity.

- 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:

- a) be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) with reference to environmental zone E1.
- b) be in accordance with the recommendations of Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'.
- c) include a layout plan with beam orientation.
- d) a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles).
- e) an ISO lux plan showing light spill.

The scheme of lighting shall be installed, maintained, and operated thereafter in accordance with the approved scheme.

Reason: To safeguard residential amenity, wildlife and to protect dark skies and prevent undue light pollution, in accordance with the maintenance of the character and quality of the countryside.

- 7) Prior to the dayroom construction proceeding above ground level a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall:
 - a) be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character a) Assessment Supplement 2012).
details of the number, size, species, maturity, spacing and position of proposed native trees and landscaping.
 - b) a timetable of implementation of the approved scheme and
 - c) a five [5] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted).

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- 8) All planting, seeding, and turfing specified in the approved landscape details shall be completed by the end of the first planting season (October to February) following its approval. Any seeding or turfing which fails to establish or any existing or proposed trees or plants which, within five years from planting 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.

- 9) Prior to the dayroom construction proceeding above ground level details of biodiversity enhancement on the site, shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall provide for the enhancement of biodiversity through integrated methods into the design and appearance of the building structure by means such as swift bricks, bat tube or bricks 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. All features shall be maintained permanently thereafter.

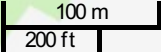
Reason: To enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- 10) Prior to the dayroom construction proceeding above ground level details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual

energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation of the approved building and maintained thereafter.

Reason: To ensure an energy efficient form of development.

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

23/501345/FULL - Reeds Wood, Cox Street, Detling, Maidstone, Kent, ME14 3HL

Scale: 1:5000

Printed on: 31/10/2023 at 15:14 PM by KirstyS



© Astun Technology Ltd

REPORT SUMMARY

REFERENCE NUMBER: 23/501345/FULL		
APPLICATION PROPOSAL: Change of use of land to a luxury holiday park to comprising 6no. hard standing pitches, 2no. safari lodges, swim pond, cycle store and conversion of existing agricultural barn to a reception building with associated access, parking, foul water package treatment plant, 2no. surface water attenuation ponds with landscaping and lighting.		
ADDRESS: Reeds Wood Cox Street Detling Maidstone Kent ME14 3HL		
RECOMMENDATION: Application Permitted		
SUMMARY OF REASONS FOR RECOMMENDATION: The landscape impact on the Kent Downs Area of Outstanding Natural Beauty is limited to short range views at the access point and additional landscaping that can be secured within the site. The AONB's landscape and scenic beauty can be adequately conserved overall and the scheme complies with Policy SP17, the NPPF and the key principles of the Kent Downs AONB Management Plan. There are significant benefits for tourism/rural economic development and it complies with Policies SP21, DM37 and DM38 in that the modest scale of the proposal is appropriate for this location and the site is relatively unobtrusively located and well screened by existing and proposed vegetation. By its nature and business model, this type of tourism use necessitates a rural location close to an equestrian business. A condition for a detailed Woodland Management Plan is considered to safeguard the ancient woodland/Local Wildlife Site (LWS) (covered by a Tree Preservation Order). The appearance of the 2 lodges to be stationed on site and the barn to be converted are appropriate to the sensitive location and the materials are both natural and vernacular and comply with design policies DM1 and DM30. External lighting has been designed to be low level and low colour temperature and the night time lux levels have been revised lower as requested by KCC's biodiversity officer and complies with policies DM3 and DM8. EV charging points are included. The onsite shop and the link of the tourism use with the neighbouring stables help to reduce what is an unsustainable location. KCC as local highway authority is satisfied that the access is safe and the residual cumulative impact on the local road network is not severe. Surface water drainage and foul drainage arrangements are both acceptable. The application was advertised as a Departure from the Development plan and is objected by the Kent Downs AONB units. However, it is concluded that adequate mitigation has been secured and there are material considerations of benefits to tourism and economic activity which, on balance, would make the proposal acceptable.		
REASON FOR REFERRAL TO COMMITTEE: The development is potentially a departure from the Development Plan.		
WARD: Detling And Thurnham	PARISH/TOWN COUNCIL: Detling	APPLICANT: Mr Kevin Rice AGENT: Architectural Designs
CASE OFFICER: Marion Geary	VALIDATION DATE: 26/04/23	DECISION DUE DATE: 30/11/23
ADVERTISED AS A DEPARTURE: Yes		

Relevant Planning History

21/504513/FULL

Change of Use to a luxury holiday park to comprise of 10no. hard standing pitches, 2no. safari lodges, amenity building, cycle store and the conversion of existing agricultural barn to reception building and associated access and parking
Refused 10.01.2022

Refused for reasons of harm to the character and appearance of the AONB; harm to Ancient Woodland; highway impact on narrow lanes; new amenity building unjustified.

13/2169

Erection of single dwelling and annexe with landscaping scheme and associated works (under paragraph 55 of the National Planning Policy Framework)
Refused 18.07.2014 and Dismissed on Appeal

Refused for reasons of harm to AONB and unsustainable location

On adjoining site (Chestnut Wood Farm):

21/504112/FULL

Change of use of ground floor of barn to use as a staff mess/staff welfare/office accommodation ancillary to the commercial livery and material changes to the external appearance of the building.
Approved 22.09.2021

18/506064/FULL

Change of use of ground floor of barn to use as a staff mess/staff welfare/office accommodation ancillary to the commercial livery and material changes to the external appearance of the building.
Approved 22.01.2019

17/503501/FULL

Removal of existing stable, manege, portable buildings/storage containers and erection of replacement stable building and manege.
Approved 24.10.2017

16/505312/FULL

Variation of condition 2 of 14/506188 (Change of use of the first floor of the barn to residential use in connection with the equestrian and agricultural businesses at Chestnut Wood Farm.) - to allow for the permanent residential use of the first floor of the barn.
Approved 25.08.2016

14/506188/FULL

Change of use of the first floor of the barn to residential use in connection with the equestrian and agricultural businesses at Chestnut Wood Farm.
Approved 20.11.2015

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 This countryside site is to the west of Cox Street and north of Scragged Oak Road on the western site Detling Hill on the upper plateau of the North Downs Kent Downs Area of Outstanding Natural Beauty. It lies within the Bredhurst to Bicknor North Downs Landscape Character Area.

- 1.02 The application site measures 2.9 ha and comprises grazing land surrounded on 4 sides by Ancient and Semi-Natural Woodland (Newlands/Burnt Woods) that is subject to a Woodland TPO (no. 11 of 1983) and is also part of the Cox Street Valley Woods, Yalsted Local Wildlife Site. The site is within the same ownership as Chestnut Wood Farm Livery to the north-west.
- 1.03 The grazing land slopes down from 179m OD in the SW corner to 175m OD in the NE corner, a drop of 4m over a distance of 190m. There are buildings at the southern end comprising a brickwork outbuilding, a large agricultural barn, a timber outbuilding and 2 metal containers. The buildings/containers are set on a large area of hardstanding which appears to have been added over 10 years ago (based on aerial images).
- 1.04 There are 2 vehicular accesses, one off Scragged Oak Road via Chestnut Wood Farm Livery and the other directly to Cox Street, albeit without a sealed surface.
- 1.05 The site lies in Flood Zone 1 and over a groundwater source protection zone.

2. PROPOSAL

- 2.01 The revised application seeks planning permission for a change of use to a Holiday Park to comprise of 6 hard standing pitches for motorhome/touring caravans, stationing of 2 holiday lodges, cycle shelter and the conversion of existing agricultural barn to reception/amenity building with 4 space parking area. The application originally proposed 7 hard standing pitches and 2 lodges.
- 2.02 Vehicular access will be via Cox Street involving a widening and a maximum 14m wide bellmouth at the highway edge.
- 2.03 The intention is that the Holiday Park will attract tourists who wish to bring their horses on holiday with them to be looked after within the Chestnut Wood Stables facility. The holidaymakers can exercise their horses within the adjacent equestrian facilities or in fields and paddocks owned by the applicant or by use of local bridleways in the area. The site manager will live at the adjacent livery business. Any horse lorries or horseboxes belonging to the holidaymakers will be parked within the livery stables. The application forms states that 1 full time staff and 2 part time staff will be employed.
- 2.04 An existing barn which is brickwork/blockwork/metal sheeting is to be converted to a reception/amenity building including a small shop for the holidaymakers. It is to have sweet chestnut weatherboarding with clay tiles, windows and doors to be dark aluminium powder coated. The Barn has a footprint of approx. 108 sqm and is approx. 6m high to the ridge. There will be demolition of a brick store and an old tractor shed and pole barn building and removal of existing storage containers.
- 2.05 The 2 holiday lodges to be stationed on the site are each 3 bedroomed and measure 14m by 6.1m (85sqm) and 4.8m high to the ridge, raised 0.6m from the ground (stepped access) with a small veranda. The proposed external materials are sweet chestnut weatherboarding and clay tiles to the roof.
- 2.06 For the touring caravan/motorhome site, the revised scheme is for 6 hardstanding pitches. Each pitch will have an electricity point and an EV charging point and will be separated by new hornbeam boundary hedging. The dimensions of the pitches are intended to comply with caravan site licence requirements (ie minimum 6m separation between caravans).
- 2.07 The access track is indicated to be lit with low level bollards and will be a 1-way loop arrangement. Parking will be on permeable resin bound surfacing. Pathways will be pavers. The access will lead to an existing gate at Cox Street which will

necessitate widening to 2 lanes and a maximum 14m width at the highway edge (using a no-dig method due to the location within the protected woodland).

- 2.08 The gap between the caravan/lodge area and the edge of the ancient woodland is 15m and will be comprised of semi-natural improved neutral grassland with edge habitat planted along the woodland boundary and will be protected by native species hedging. All the woodland and buffer zone areas are stated to be out of bounds to the holiday makers. The applicant has indicated that the woodland is to have a coppicing regime re-introduced.
- 2.09 New planting on and around the site is indicated to be Field Maple (12); Wild Cherry (7); Goat Willow (5); Wild Service Tree (4); Hawthorn (71); Flowering Cherry (10) Hazel (4); Blackthorn (49) Wayfaring Tree (39) with mixed native and hornbeam hedging.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017; SS1, SP17, SP21, DM1, DM3, DM21, DM30, DM31, DM37, DM38, DM41

Kent Waste and Minerals Plan (amended 2020):

The National Planning Policy Framework (NPPF):

National Planning Practice Guidance (NPPG):

Maidstone Landscape Character Assessment 2012 (Updated 2013)

Kent Downs AONB Management Plan 2021-2026 (Third Revision)

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound were out to public consultation ending on 13 November 2023 so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time.

Members are advised that the replacement for policy SP17 is draft policy LPRSP9 which in the Main Modifications recently consulted on is proposed to have the word "significant harm" when considering the level of harm to the rural character and appearance of the area.

4. LOCAL REPRESENTATIONS

Local Residents:

Detling Parish Council

- 4.01 Support: The proposal meets the requirements of Local Plan policies DM30 - and DM38. Noted that KCC Highways has dropped its objection after a revision was made to the application. The proposal is well screened and benefits rural employment and the local economy, outweighing any detriment to the AONB.

Councillor Thompson

- 4.02 Objection:

- Conflicts with Principles SD1, SD2, SD3, SD8, SD9, WT1 of the AONB Management Plan
- detracts rather than enhances character and quality of the AONB
- negative impact on landscape and special character

- no net gain to biodiversity
- disconnects woodlands in the AONB
- does not strengthen local distinctive and historic character
- noise, vehicle emissions, and lighting harm to ecology
- Direct impact and recreational pressure on TPO site, ancient Woodland, in a Local Wildlife Site.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below. Comments are discussed in more detail in the appraisal section where considered necessary)

Natural England

5.01 No objection subject to standing advice on:

- Landscape
- Ancient Woodland, Ancient and Veteran trees
- Priority Habitats and Species
- Sites of Special Scientific Interest Impact Risk Zones

Southern Water Services

5.02 No objection.

Environment Agency

5.03 No comment as site is not located on Source Protection Zones 1 or 2.

Forestry Commission

5.04 No objection subject to:

- Natural England and Forestry Commission joint Standing Advice for Ancient Woodland and Ancient and Veteran Trees

Kent Downs AONB Unit

5.05 Objection

- development would neither conserve nor enhance the local character and tranquillity of the Kent Downs AONB, contrary to paragraph 176 of the NPPF.
- contrary to paragraph 180 which seeks to protect Ancient Woodland
- Contrary to Kent Downs AONB Management Plan principles SD1, SD3, SD7, SD8, LLC1, WT1.
- Contrary to management objectives of the local Landscape Character Area (conserving the small scale nature of the roads and villages and remote quality of the countryside, maintaining the existing landscape mosaic of arable land, grassland, woodland, orchards and parkland and controlling urban fringe pressures and activity).
- More informal and basic overnight tourism accommodation facilities are more likely to be able to be accommodated within this landscape

KCC Highways

5.06 No objection subject to conditions on:

- Access and visibility splays
- Construction Environment Management Plan
- on site vehicle and cycle parking
- Vehicle loading/unloading and turning facilities

5.07 The removal of the KCC objection is based on analysis of the additional trips generated by the amended proposal being a modest increase of 1.5% to the daily total. When combined with the previous Personal Injury Collision Evidence, there is not a safety issue along the route.

KCC Drainage

5.08 No objection subject to conditions on:

- Attenuation ponds being constructed as proposed
- Permeable resin bound surfaces

KCC Ecology

5.09 No objection subject to condition on lighting types and timing, glazing of lodge facing woodland.

Environmental Protection

5.10 No objection subject to condition on:

- 1 rapid EV charging point

Kent Wildlife Trust

5.11 Objection:

- impacts on ancient and deciduous woodland priority habitat that forms part of Cox Street Valley Woods Local Wildlife Site.
- Needs an ancient woodland compensation strategy
- Woodland needs protecting from impacts during the construction and operational phases

6. APPRAISAL

6.01 The key issues are:

- Spatial Strategy
- Impact on countryside/AONB
- Visual Impact
- Tourism
- Ecology
- Trees and Ancient Woodland
- Highways

Spatial Strategy

- 6.02 The starting point for assessment of all applications in the countryside is Local Plan Policy SP17 which states that development proposals in the countryside will only be permitted where:
- a) there is no harm to local character and appearance, and
 - b) they accord with other Local Plan policies
- 6.03 This is a form of development which is a relatively intense change of use with associated paraphernalia and structures which, by reason of being proposed on open countryside in agricultural use, inevitably harms the character and appearance of the area. However, by its nature and business model, this type of tourism use necessitates a rural location close to an equestrian business.
- 6.04 The application was advertised as a Departure from the Development plan for that reason. It is therefore necessary to assess the impact on the countryside/AONB in terms of acceptable mitigation and whether there are material considerations which, on balance, would make the proposal acceptable.

Impact on countryside/AONB

- 6.05 Policy SP17 requires great weight to be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty with account taken of the Kent Downs AONB Management Plan and the Maidstone Borough Landscape Character Guidelines SPD.
- 6.06 The Landscape Character is the Bredhurst and Stockbury Downs which is of "poor condition" and "moderate sensitivity" with guidelines being to "RESTORE & IMPROVE".
- 6.07 Paragraph 177 of the NPPF in terms of the AONB states that great weight should be given to conserving and enhancing the landscape and scenic beauty due to their highest status of protection. Whilst this is development on a site of 2.9 ha, in the context of the NPPF, whether a proposal is 'major development' takes account of its nature, scale and setting, and whether it could have a significant adverse impact. It is concluded that the tourism development of 8 units of accommodation does not need to meet the tests for "major development" in the NPPF. Hence there is no need for exceptional circumstances nor for the development to be in the public interest.
- 6.08 Nevertheless, the NPPG elaborates the NPPF that all development within nationally protected landscapes needs to be located and designed in a way that reflects their status as landscapes of the highest quality.
- 6.09 The proposal needs to be considered against the aims and objectives of the latest revision of the Kent Downs AONB Management Plan, in particular Principles SD1, SD2, SD3, SD8, SD9, WT1 which emphasise the statutory duty to conserve and enhance the natural beauty of the Kent Downs AONB where changes to land use should be opposed where they disregard biodiversity, rich habitats, tranquillity, woodland and trees, failing to conserve or enhance the Kent Downs AONB.
- 6.10 The LVIA submitted concludes that the existing dense tree screening to all sides together with the proposed planting will ensure no harmful visual impact will occur to either the landscape of the AONB or within the site itself.
- 6.11 It is generally accepted that holiday lodges and touring caravans/motorhomes represent intrusive development in the countryside and as such should normally only occupy well screened locations. This site is generally well screened by virtue of the protected woodland tree belts on all sides although the widened access to Cox Street will be visible and may allow glimpses of the southern part of the holiday

park. Much of the screening is mature sweet chestnut trees which lose their leaves in winter months and are likely to be coppiced/thinned at some point if woodland management recommences. This reduces their screening value at certain times of the year and/or coppicing cycle, particularly from Cox Street where the tree belt is approx. 15m wide.

- 6.12 However, taking into account of the size of the application site, this is a generally discretely located site with limited public views which has scope for extensive additional landscape buffer screening between the AW and the tourism plots with native planting.
- 6.13 It is concluded that the landscape impact is limited to short range views at the access point and additional landscaping that can be secured within the site. This means that the AONB's landscape and scenic beauty can be adequately conserved overall.

Tourism

- 6.14 Policy SP17 cross refers to compliance with other policies in the MBLP which, in this case, includes policies that support tourism and rural economic development.
- 6.15 Policy SP21 states that proposals for the expansion of existing economic development premises in the countryside will be permitted (including tourism related development) provided the scale and impact of the development is appropriate for its countryside location. It is considered that the modest scale of the proposal is appropriate for this location.
- 6.16 Policy DM38 specifically addresses the impact of holiday caravans and camp sites in the countryside which will be permitted if the following criteria are met:
1. The proposal would not result in an unacceptable loss in the amenity of the area. In particular the impact on nearby properties and the appearance of the development from public roads will be of importance.
 2. The site would be unobtrusively located and well screened by existing or proposed vegetation and would be landscaped with indigenous species.
- 6.17 As detailed above, the site is relatively unobtrusively located and well screened by existing and proposed vegetation.
- 6.18 Policy DM37 states that the sustainable growth and expansion of businesses in rural areas will be permitted subject to:
- New buildings being small in scale and the resultant development being appropriate in scale for the location and satisfactorily integrated into the local landscape;
 - The increase in floorspace would not result in unacceptable traffic levels on nearby roads or a significant increase in use of an existing substandard access;
 - The new development, together with the existing facilities, will not result in an unacceptable loss in the amenity of the area. In particular the impact on nearby properties and the appearance of the development from public roads will be of importance.
- 6.19 All of these criteria are met as detailed below.
- 6.20 The tourism and rural economic benefits are considered to be significant especially as the use relates well to the existing equestrian business and the area is served by an extensive bridleway network. This is a material consideration of considerable weight.

Visual Impact

- 6.21 Policy DM37 states that the sustainable growth and expansion of businesses in rural areas will be permitted subject to new buildings being small in scale and the resultant development being appropriate in scale for the location and satisfactorily integrated into the local landscape and the new development will not result in an unacceptable loss in the amenity of the area such as the appearance of the development from public roads will be of importance.
- 6.22 Policy DM 31 relates to the conversion of a rural building which should be of acceptable form, bulk, scale and design and be capable of conversion without major or complete reconstruction and in-character in terms of materials, design and form.
- 6.23 The proposal also has to satisfy the design requirements of policies DM1 and DM30 which require that new buildings should be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.
- 6.24 The constraints imposed by the AW and the need for a 15m buffer results in a developed central area for the caravan pitches and lodges which will have a relatively regimented appearance. Despite the apparent space around the pitches by the 15m wide AW buffer, this does concentrate the development's use and activity in a small enclave within trees which are AW and protected by a TPO and form part of a Local Wildlife Site.
- 6.25 However, the reduction in the number of pitches to 6 with 2 lodges is considered to represent a less cramped layout than the refusal under 21/504513/FULL and strikes an appropriate balance with the economic and tourist benefits that will arise.
- 6.26 The appearance of the new lodges to be stationed and the barn to be converted are appropriate to the sensitive location and the materials are both natural and vernacular.

Ecology/Lighting

- 6.27 Policy DM3 on the Natural Environment relates. A submitted preliminary ecological appraisal concludes that the Local Wildlife Site woodland surrounding the site has the potential to support foraging bats, nesting birds, badgers and dormice and also possibly reptiles. There are recommendations for mitigation and ecological enhancements.
- 6.28 Policy DM 8 on external lighting requires it be the minimum amount of necessary, minimises glare and light spillage and not be detrimental to intrinsically dark landscapes and lighting proposals that are within or are near enough to significantly affect Local Wildlife Sites will only be permitted in exceptional circumstances.
- 6.29 The lighting from the use of the holiday units and pitches, the bollard lighting within the site and safety lighting of the amenity block throughout the night has the potential to be intrusive and harmful to biodiversity, particularly bearing in mind the proximity and narrow dimensions of the surrounding protected woodland which is a Local Wildlife Site.
- 6.30 The agent has confirmed compliance with the KCC Biodiversity officer's request in the interests of insects specifically that the wayfinder bollard lighting will comprise of photocell-controlled lighting on 1m posts and will be reduced to 10% (0.5 Lux) between the hours of 2100 – 0700. The PIR sensors to the Lodge accesses and site entrances are to turn off after one minute and any lighting within the pool area is to be turned off at 2100. The woodland facing windows to the lodges will comprise of sage-glass tinted windows to reduce domestic light spillage towards the LWS.

- 6.31 The EV charging points to each of the plots will be lit. The main lighting is bollard lighting is 3000K colour temperature and directed down and away from the woodlands/LWS. There will be new planting in the buffer between the bollards and the LWS to further screen any light spillage. The PIR downlights to the Lodges Accesses and Site Entrances will be 2700K colour temperature better suited to ecology.
- 6.32 It is considered that the revised lighting scheme is designed to be minimised and commensurate with safety requirements and the design of the lighting plus planting screening as controlled by a suggested condition will mean no harm to the ecology of the LWS around the site. KCC's Biodiversity Officer is supportive of this approach and is concluded that policies DM3 and DM8 are not breached.

Trees and Ancient Woodland

- 6.33 Paragraph 180 of the NPPF seeks to protect Ancient Woodland (AW), specifically that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Policy DM3 of the MBLP also refers to the need to protect AW and trees with significant amenity value and in terms of Local Wildlife Sites, development likely to have an adverse effect will be permitted only where the damage can be avoided or adequately mitigated or when its need outweighs the biodiversity interest of the site.
- 6.34 The layout shows adequate 15m buffer to the AW where new development is proposed. This will be landscaped and no access for recreational use, secured by condition. The existing barn to be converted does lie in the buffer but that derives from an existing situation and the access point to the building have been designed to be outside the buffer. There are existing access tracks into the site from Chestnut Wood Livery and Cox Street which also lie within the AW buffer. Again, these are in situ and could not be practically moved to any less sensitive alignment.
- 6.35 The main direct impact on the AW is from the widening of the Cox Street access to accommodate the size of vehicles. The submitted tree report recommends tree protection measures and arboricultural method statement which can be secured by condition. Four trees close to the access would have the access widening works within their Root Protection Areas but harm will be acceptably reduced by a no-dig method of construction. Advance root pruning trench in regard of another tree is also suggested and can be required by condition. Three trees will need to be removed- these are Sweet Chestnut and a Holly, all category C and their loss will not have significant impact on the visual, arboricultural or ecological value of the AW.
- 6.36 Overall, it is considered that the NPPF and local plan policies for a AW subject to a Tree Preservation Order are complied with subject to a condition for a detailed Woodland Management Plan for the ancient woodland/Local Wildlife Site (LWS)

Highways

- 6.37 There are requirements in policy DM38 to ensure acceptable amenity impacts from tourism development. Policy DM 21 relates to assessing the transport impacts of development
- 6.38 The site is remote from public transport and the topography and unlit narrow lane network in this part of the Borough is not conducive to walking or cycling to access local services. Hence the location is inherently unsustainable. However, the proposal indicates a small shop aimed at providing day to day convenience goods which should reduce trip generation and the intended linkage of the site use with neighbouring horse riding activities would mean that the vehicular comings and

goings for tourism purposes would be expected to be less than a more typical caravan/lodge site.

- 6.39 The NPPF requires that development should be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy DM21 of the MBLP requires that the impacts of trips generated to and from a development are demonstrated to be accommodated, remedied or mitigated to prevent severe residual impacts.
- 6.40 The application includes a Transport Report and a follow up Technical Note detailing and assessing the impact of in relation to traffic movements and suitability of the existing access for any increased vehicle movements. The Holiday Park site is intended for a frequent turnover of visiting motorhomes, touring caravans and horseboxes. Hence the suitability of the access and the local network of narrow lanes needs to be demonstrated to be acceptable bearing in mind an increase the volume of larger vehicles i.e. caravans and campervans and lack of passing places in the lanes within 800m of the site. The trip generation calculation also need to be of a worst case scenario
- 6.41 The scheme was reduced to 6 caravan pitches and 2 lodges and the additional Technical note shows that the additional trips generated by the proposal will contribute a modest increase of 1.5% to the daily total. The Personal Injury Collision evidence indicates there is not a safety issue on the route. On this basis, applying the NPPF test, there is not an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. Therefore the highway reason for refusal of the previous 2021 scheme has been overcome.
- 6.42 The applicant has offered to liaise with third party landowners to improve scope for vehicle passing. This would be beneficial but cannot be conditioned or otherwise legally required as part of the planning permission due to lack of certainty it can be achieved at this stage.

Other Matters

- 6.43 Policy DM41 relates to equestrian development but the criteria do not apply to associated holiday lets or caravan sites so is not relevant to this planning application.
- 6.44 Surface water will drain to a SuDs scheme of permeable hard surfacing, soakaways and 2 drainage "wetland" ponds. Foul sewage is to a 25 person capacity Package Treatment plant and the Environment Agency has no comments to make in terms of groundwater.
- 6.45 There are no residential properties sufficiently close that would suffer a direct loss of residential amenity.
- 6.46 Archaeological interest can be dealt with by condition.

PUBLIC SECTOR EQUALITY DUTY

- 6.47 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 landscape impact on the Kent Downs Area of Outstanding Natural Beauty is limited to short range views at the access point and additional landscaping that can be secured within the site. This means that the AONB's landscape and scenic beauty

can be adequately conserved overall and the scheme is considered to comply with Policy SP17, the NPPF and the key principles of the Kent Downs AONB Management Plan

- 7.02 The proposal has significant benefits for tourism/rural economic development and complies with Policies SP21, DM37 and DM38 in that the modest scale of the proposal is appropriate for this location and the site is relatively unobtrusively located and well screened by existing and proposed vegetation which are also the requirements of design policies DM1 and DM30. By its nature and business model, this type of tourism use necessitates a rural location close to an equestrian business.
- 7.03 A condition for a detailed Woodland Management Plan is considered to safeguard the ancient woodland/Local Wildlife Site (LWS) (covered by a Tree Preservation Order).
- 7.04 The appearance of the 2 lodges to be stationed on site and the barn to be converted are appropriate to the sensitive location and the materials are both natural and vernacular.
- 7.05 External lighting has been designed to be low level and low colour temperature and the night time lux levels have been revised lower as requested by KCC's biodiversity officer and complies with policies DM3 and DM8.
- 7.06 EV charging points are included. The onsite shop and the link of the tourism use with the neighbouring stables help to reduce what is an unsustainable location. KCC as local highway authority is satisfied that the access is safe and the residual cumulative impact on the local road network is not severe.
- 7.07 Surface water drainage and foul drainage by a 25 person Package Plant are both acceptable.
- 7.08 The application was advertised as a Departure from the Development plan and is objected by the Kent Downs AONB units. However, it is concluded that adequate mitigation has been secured and there are material considerations of benefits to tourism and economic activity which, on balance, would make the proposal acceptable.

EIA Screening

EIA Development	No
Comments	This development is in a Sensitive Area of the AONB but is not a type or scale of project within either Schedule 1 or 2 of the EIA Regulations 2017.

8. 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 and/or informatives 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 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 unless otherwise agreed in writing by the local planning authority:

22/3272 Existing Block Plan
22/3277 Proposed Reception and Amenity Building
22/3278 Proposed Lodge Plans and Elevations
22/3280 Pond Sections
22/3275B Proposed Block Plan
22/3279A Drainage Strategy
22/3280A Lighting Layout
22/3281 Planting Plan

Reason: Fore the avoidance of doubt

- 3) Prior to commencement of development, the applicant, or their agents or successors in title, will secure the implementation of a watching brief to be undertaken by an archaeologist approved in writing by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 4) Prior to the commencement of development, a detailed Woodland Management Plan for the ancient woodland/Local Wildlife Site (LWS) shall be submitted to and approved in writing by the Local Planning Authority. This will include the measures outlined within the Cantia Amended Soft Landscaping Proposals Woodland Management Information (Section 4.0) June 2023, and also include the following:

- Description and evaluation of all features to be managed within the ancient woodland/LWS, 15m buffer and caravan/lodge areas
- Aims and objectives of management
- Constraints that might influence management
- Map of all habitat management areas including location and design of proposed livestock fencing
- Detailed management proposals for the ancient woodland and LWS
- Detailed management proposals for habitats within the campsite area and 15m buffer (wetlands, hedgerows, tall meadow grassland and tree planting);
- Details of signage to be installed to highlight the significance of the ancient woodland and Local Wildlife Site, and the importance of sensitive use.
- Dog-waste and litter disposal facilities to be provided within the campsite to encourage owners to remove all waste from the LWS;
- Prevention of visitors sourcing firewood from the habitats within and bordering the site (deadwood and woody vegetation);

- Preparation of a work schedule for all management areas (including an annual work plan capable of being rolled forward over a five-year period);
- Details of the persons, body or organisation responsible for implementation of the plan, and
- Ongoing monitoring and remedial measures.

The Plan will include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured. The approved plan will be implemented in accordance with the approved details.

Reason: To protect and enhance the Ancient Woodland and Local Wildlife Site and in the interests of ecology.

- 5) Prior to commencement of development, details of a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. This will include clear ecological enhancement for breeding birds and bats and shall include provision of bat boxes, bird boxes, bug hotels, bee bricks, habitat piles and native planting. Details of any habitat creation will be detailed including hedgerow and wildflower planting. The approved details will be implemented prior to first use of the approved tourist site and thereafter retained.

Reason: In the interests of biodiversity and ecology.

- 6) Prior to commencement of development, a Construction Environment Management Plan for Biodiversity shall be submitted to and approved in writing by the Local Planning Authority. It shall include methods for avoiding pollution of the ancient woodland by compaction, light, dust and noise during the construction period, and details of precautionary mitigation measures for bats, breeding birds and hazel dormouse to be implemented during building and vegetation clearance, as recommended within the Preliminary Ecological Appraisal (Kent Botany). This will include a Preliminary Roost Assessment of the five trees to be removed (Arboricultural Impact Assessment by Cantia), together with any required surveys and European protected species licensing prior to removal.

Reason: In the interests of biodiversity and ecology.

- 7) Prior to commencement of development above ground level, details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, shall have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter.

Reason: To ensure an energy efficient form of development

- 8) Prior to commencement of development above ground level, written details and samples of the materials to be used in the construction of the external surfaces of the lodges and amenity/reception buildings hereby permitted shall have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials. These shall accord with the Design and Access Statement which referred to sweet chestnut cladding, aluminium windows and clay roof tiles.

Reason: To ensure a satisfactory appearance to the development.

- 9) Prior to first occupation of the tourist lodges hereby permitted, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The detailed landscaping scheme which is in accordance with the Council's Landscape Character Guidelines shall include native species planting

including details of species, plant sizes and proposed numbers and densities, with details of the new hedgerow planting as shown on Drawing 22/3281. The landscaping scheme shall include native species and require the use of non-plastic tree guards. Hedges should have a final maintenance height above 1.5m. The detailed landscaping scheme shall include a plan for the long term maintenance of the landscaping.

All planting, seeding and turfing specified in the approved detailed landscaping scheme shall be fully in place by the end of the first planting season following first occupation of the approved tourist lodges. All such landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of the lodges, 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 biodiversity, landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 10) The new hard surfacing shall be carried out in accordance with the approved details on drawing 22/3275B before the first use of the holiday accommodation and maintained thereafter. No further hard surfacing shall be installed unless an application is submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the visual amenities of the area and to minimise surface water runoff.
- 11) Prior to first use of the holiday lodge/caravan/motorhome site hereby permitted, the amended access to the site, shown on Drawing 22/3275B shall be provided and maintained and available for use with visibility splays provided and maintained as shown on drawing 17056 H-01 P1 (Appendix F of Transport Technical Note Oct 2022).
Reason: In the interests of highway safety.
- 12) The approved details of the cycle parking shelter hereby approved and parking/turning areas shall be completed before the commencement of the tourism use 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.
- 13) Prior to first use of the caravan/lodge site hereby permitted, a minimum of 4 electric vehicle charging points shall be provided on the site and made available for the users of the proposed tourism site. The electric vehicle charging points shall be retained for the lifetime of the development.
Reason: In the interests of sustainability and air quality.
- 14) Prior to first use of the tourist site hereby permitted, foul and surface water drainage for the site shall be in place in accordance with the Drainage Strategy drawing 22/3279A (including Klargestor Bio-Tec 4 (25 person) sewage treatment plant) and shall be retained thereafter.
Reason: To ensure that adequate drainage is provided for the development and

reduce the potential for flooding, protect the water environment and prevent contamination of the land.

- 15) No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), shall be carried out within the new accessway, vehicle turning and/or parking areas or in such position as to preclude vehicular access to them.

Reason: Development without adequate access, vehicle turning facilities and/or parking provision is likely to lead to vehicle movements and parking inconvenient to neighbouring residents and other road users and in the interests of local amenity and road safety.

- 16) All external lighting shall be installed in accordance with the locations set out in the lighting layout drawing 22/3280A and the Lighting Strategy by DFL except as amended by agent email dated 08 August 2023 as follows:

- wayfinder lighting to be photocell-controlled on 1m posts and reduced to 10% (0.5 Lux) between the hours of 2100 – 0700.
- The PIR sensors to the Lodge accesses and site entrances to turn off after 1 minute.
- Any lighting within the pool area to be turned off at 2100.
- The woodland facing windows to the lodges will comprise of sage-glass tinted windows

The lighting these shall be retained thereafter as approved.

Reason: In order to safeguard the night-time rural environment and the ecological interests of the locality.

- 17) No boundary treatments over 1m high shall be installed except in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of rural visual amenity.

- 18) The buffer zone the approved block plan 22/3275B shall be free from any development and shall not be used for any tourism related purpose.

Reason: In the interests of visual amenity, the protection and enhancement of biodiversity and the character and appearance of the open countryside location.

- 19) The use of the site hereby approved is for the stationing of no more 2 holiday lodges of maximum dimensions 14m by 6.1m (85sqm) and 4.8m high to the ridge and no more than 6 touring caravan or motorhomes shall be stationed on the land at any time. No horse boxes or horse lorries shall be stationed on the site on the site at any time.

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

- 20) The lodges and all caravans/motorhomes stationed on the site hereby approved shall be occupied for bona fide holiday purposes only and shall not be occupied as a person's sole or main place of residence.

(i) The tourist accommodation hereby permitted shall not be occupied continuously by any person(s) for a period in excess of 28 days and there shall be no return to occupation by those person(s) within a period of 3 months.

(ii) The operators of the site shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all the occupants and this

information shall be made available at all reasonable times upon request to the local planning authority.

(iii) Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the site, who will keep the register (referred to at (ii)) and make it available for inspection, shall also be submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to the first occupation of any of the buildings with the relevant contact details subsequently kept up to date at all times.

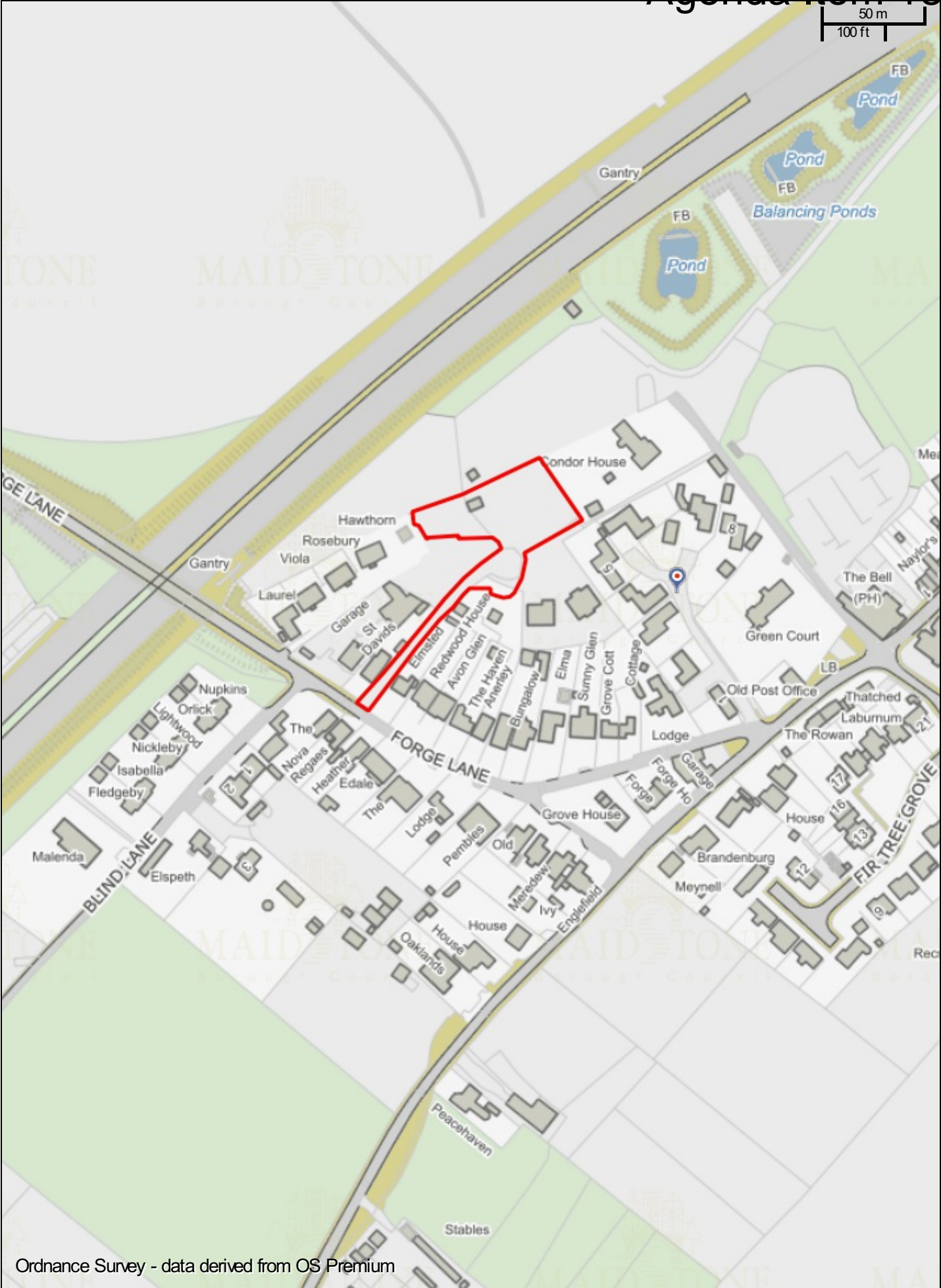
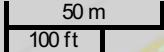
(iv) At the end of each calendar year following first occupation the operators of the site shall submit the up-to-date register of occupants to the Local Planning Authority (planningenforcement@maidstone.gov.uk) for review.

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

INFORMATIVES

- 1) Forestry Commission - felling licence
- 2) KCC Highways
- 3) Environmental Protection- construction

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

REPORT SUMMARY

REFERENCE NO: - 23/501986/FULL		
APPLICATION PROPOSAL: Erection of 3no. dwellings with associated garages, parking, and amenities, including alterations to existing access.		
ADDRESS: Land northeast of Redwood Glade Forge Lane Bredhurst Kent ME7 3JX		
RECOMMENDATION: REFUSE PLANNING PERMISSION		
<p>SUMMARY OF REASONS FOR RECOMMENDATION:</p> <p>The 3 large detached 4 bedroom houses by reason of their design. height, bulk, and layout in this currently open backland location in the countryside and outside any designated settlement, would both individually and cumulatively result in harm to the character and appearance of the local area. The proposal would have a detrimental urbanising impact on the existing character and scenic beauty of the nationally significant landscape AONB with a failure to contribute positively to the conservation and enhancement of this protected landscape. With this identified harm increased by the additional domestic paraphernalia associated with this additional 4 households in this rural location. The proposal is contrary to policies SP17, DM1, DM5 and DM30 of the Local Plan (2017), the Kent Downs AONB Management Plan 2023-2026, and the National Planning Policy Framework (2023).</p> <p>The proposal located outside of any outside any designated settlement, represents unsustainable residential development where future occupants would be reliant on the use of private cars to access services and facilities and in the absence of any overriding justification for three new dwellings at this location, the development is contrary to policies SS1, SP17 and DM5 of the Maidstone Borough Local Plan (Adopted October 2017) and guidance in the NPPF (2023) relating to sustainable development.</p> <p>The application fails to demonstrate that the proposal will provide an adequate standard of living accommodation for future residents. In this location close to the M2 motorway, and with the absence of a Noise Assessment Report the application fails to demonstrate that the acoustic environment both internally and externally would be within acceptable tolerances. The proposal would fail to comply with policy DM1 of the Maidstone Borough Local Plan requiring development to secure high quality design and a good standard of amenity for future occupants of buildings. The proposal is contrary to policy DM1 of the Maidstone Borough Local Plan (Adopted October 2017) and guidance in the NPPF (2023).</p>		
REASON FOR REFERRAL TO COMMITTEE: Call in from Cllr Robert Hinder for the reasons set out in section 4 of this report.		
WARD: Boxley	PARISH/TOWN COUNCIL: Bredhurst	APPLICANT: Mr & Mrs David & Gerarda Olver & Everett AGENT: Taylor Roberts Ltd
CASE OFFICER: Francis Amekor	VALIDATION DATE: 10/05/23	DECISION DUE DATE: 24/11/23
ADVERTISED AS A DEPARTURE: No		

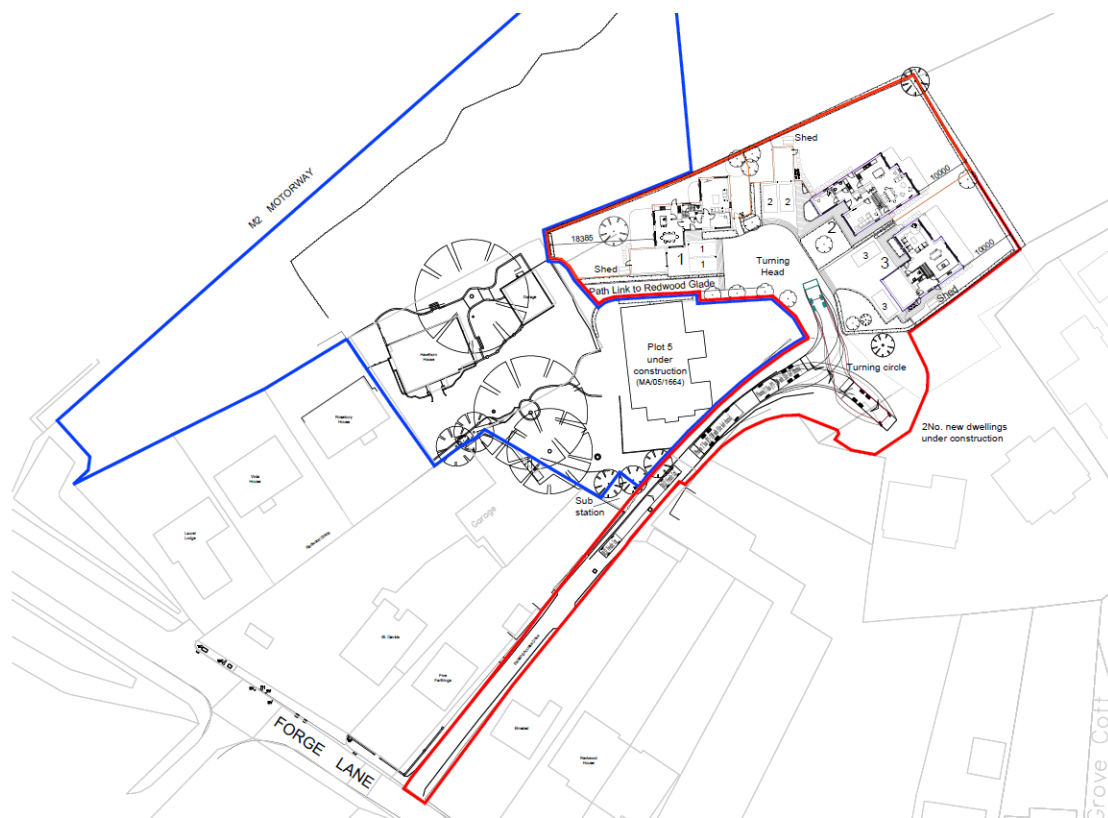
Relevant planning history

22/502988/FULL Erection of 4 dwellinghouses including amendment to access into the site from access track and associated amenities. Withdrawn 10.02.2023.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is in the countryside and within the Kent Downs Area of Outstanding Natural Beauty. The site is a builder’s yard accessed from Forge Lane via a long track containing a small timber shed and scaffolding. The site has mature vegetation along sections of its boundaries.
- 1.02 The Maidstone Landscape Character Assessment identifies the wider area as falling within the Bredhurst to Bicknor North Downs Landscape Character Area (area 2) and the relevant advice for this area is to improve and conserve character where condition is poor.
- 1.03 Residential properties fronting Forge Lane are to the south west, whilst to the east the expansive residential garden of Condor House. The southern site boundary abuts the front garden of residential properties allowed at appeal under reference number: APP/U2235/W/17/3176721, and the detached dwelling currently under construction on plot 5. To north of the site is an open verdant field characteristic of the wider countryside beyond the M2 motorway.



Proposed site plan.

- 1.04 Green Court, a grade II listed building is approximately 104 metres to the southeast of the application site. Development within the built up part of Bredhurst village has a diverse architectural character comprised mainly of traditionally built two-storey detached houses and bungalows in a wide range of designs and materials.

2. PROPOSAL

- 2.01 Planning permission is sought for three 4 bedroom detached dwellings. The dwellings and their garages are positioned around a turning head. Each dwelling has a ridge height of 9 metres with roof eaves at 5 metres. Fenestration is consistent with dwellings of this size and the openings on the approved dwellings on the adjacent plot.

- 2.02 The ground floor of the proposed dwellings have a lounge, kitchen dinner, entrance hall, store and downstairs toilet, the upstairs have 4 bedrooms, and a bathroom. The houses have outdoor amenity space provided at the rear.
- 2.03 Plots 1 and 3 have attached garages with plot 2, a single storey detached garage. The proposed garages have a pitched roof with the ridge set down from the ridge of the main house. Each garage is approximately 4.5 metres wide with an average depth of approximately 6.5 metres. Two open air car parking spaces are provided for each house in front of the garage.



Proposed front elevations

3. POLICY AND OTHER CONSIDERATIONS

Development Plan: Maidstone Local Plan 2017:

- Policy SS1 – Maidstone Borough Spatial Strategy
- Policy SP17 – Countryside
- Policy DM1 – Principles of good design
- Policy DM3 – Natural environment
- Policy DM2 – Sustainable design
- Policy DM5 – Development on Brownfield Land
- Policy DM8 – External lighting
- Policy DM23 – Parking standards
- Policy DM30 – Design principles in the countryside

Emerging Draft Policy: Maidstone Draft Local Plan:

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2023, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time.

The relevant policies in the Maidstone Draft Local Plan are as follows:

Policy LPRSS1– Maidstone Borough Spatial Strategy
Policy LPRSP9 – Development in the Countryside
Policy LPRSP15 – Principles of Good Design
Policy LPRQ & D4 – Design principles in the Countryside
Policy LPRTRA4 – Parking

Policy LPRSS1– Maidstone Borough Spatial Strategy
Policy LPRSP9 – Development in the Countryside
Policy LPRSP15 – Principles of Good Design
Policy LPRQ & D4 – Design principles in the Countryside
Policy LPRTRA4 – Parking

The National Planning Policy Framework -NPPF (2023)

Section 2 – Achieving Sustainable Development
Section 4 – Decision Making
Section 12 – Achieving well Designed Places

Supplementary Planning Documents

Kent Downs Management Plan.
Ministry of Housing, Communities and Local Government: National Design Guide.
Government’s Technical Housing Standards: Nationally Described Space Standards (March 2015).
National Planning Policy Guidelines (NPPG).

4. LOCAL REPRESENTATIONS

Bredhurst Parish Council:

4.01 Wish the application to be approved.

Cllr Robert Hinder:

4.02 Support for the application for the following reasons:

- Extremely impressed with the ecological arrangements that are already in place and the surrounding landscape.
- Applicant has sought pre - application advice and as far as I am aware has implemented this advice.
- Architecture proposed is in keeping and superior to neighbouring properties that have been constructed.
- Standards of proposed energy saving measures go beyond the basic requirements.
- I find no aspects where this proposal is at odds with any of the current policies of the council.
- If officers are minded to recommend refusal I wish it to be called to full planning committee.

Local residents:

4.03 2 objections have been received raising the following (summarised) issues.

- The plans submitted are materially inaccurate, consequently, plot 3 is being built on land not in the ownership of the applicant.
- Loss of privacy - full height windows shown on the first-floor side elevation of the house on plot 3 look directly into neighbouring properties and their garden.
- The land being provided as transitional land for reptiles is a regularly mown and bears no similarity to the land indicated in the proposal.

5. CONSULTATIONS

MBC Heritage, landscape, and trees

- 5.01 The proposal site lies within the Bredhurst to Bicknor North Downs Area of the Maidstone Borough Council Landscape Character Areas, which has a landscape guidance of 'Improve areas and conserve character where condition is poor'. Within the Dry Valleys and Downs specifically the Bredhurst and Stockbury Downs area of the MBC Borough Wide Character Areas, which has a landscape guidance of 'Restore and Improve'.
- 5.02 The site also lies within the Kent Downs Area of Outstanding Beauty. The Kent Downs Area of Outstanding Beauty is a statutory landscape designation whose distinctive character and natural beauty are precious enough to be safeguarded in the national interest.
- 5.03 While we recognise (as does the applicant's landscape consultant) that Landscape Visual Impact Assessments are required for Environmental Impact Assessment, an Landscape Visual Impact Assessment can also be requested as a separate document in its own right to accompany a planning application.
- 5.04 A Landscape Visual Impact Assessment would enable MBC to use a recognised methodology to determine the landscape and visual impact of the proposal on the locality, in accordance with best practice and guidance (GVLIA3). This would enable us to better assess cumulative impacts which should be recognised as there is pressure from creeping development in this area. Without the Landscape Visual Impact Assessment, the impact of the proposal cannot be fully assessed.

6. APPRAISAL

- 6.01 The key issues are:
- Countryside location and policy SP17
 - Previously developed land and local plan policy DM5
 - Landscape and visual impact on Kent Downs Area of Outstanding Beauty.
 - Residential amenity
 - Access and parking
 - Ecology

Countryside location and policy SP17

- 6.02 The application site is in the countryside and the starting point for assessing all applications in the countryside is Local Plan policy SP17. Policy SP17 states that development proposals in the countryside will only be permitted where:
- a) there is no harm to local character and appearance, and
 - b) they accord with other Local Plan policies
- 6.03 Policy SP17 does not specify an acceptable level of harm to local character and appearance and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17.
- 6.04 In certain circumstances where there is locational need for development (equestrian, rural worker dwelling agricultural buildings etc) other Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall. In this case, there are no other policies in the Local Plan that would permit new dwellings in this location.

- 6.05 The National Planning Policy Framework (NPPF) highlights that the planning system is plan-led. The NPPF reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require by law that planning applications *"must be determined in accordance with the development plan, unless material considerations indicate otherwise"*.
- 6.06 To this extent and in principle, the proposal would conflict with policy SP17 of the Local Plan in so far as it seeks to resist development outside defined settlement boundaries and to protect the countryside. This report will consider whether there are material considerations that justify granting of planning permission contrary to the Local Plan.

Landscape and visual impact on the countryside and Kent Downs AONB

- 6.07 Policy SP17 identifies that great weight should be given to the conservation and enhancement of the Kent Downs AONB. The NPPF states *"Great weight should be given to conserving and enhancing landscape and scenic beauty in... Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues..... The scale and extent of development within [an AONB] should be limited..."*
- 6.08 The Maidstone Landscape Character Assessment identifies the wider area as falling within the Bredhurst to Bicknor North Downs Landscape Character Area (area 2) and the relevant advice for this area is to improve and conserve character where condition is poor.
- 6.09 The application site combined with the open field to the north, makes an important contribution to the wider Kent Downs Area of Outstanding Beauty. Consequently, developing the currently vacant and open plot for three, large two-story four bedroom houses and expanding the extent of current built development would have a harmful visual impact on local character.
- 6.10 Local Plan Policy DM 30 advises that in areas such as the current appeal site that are "outside of the settlement boundaries as defined on the policies map, proposals which would create high quality design..." and meet several criteria will be permitted.
- 6.11 These criteria in policy DM30 state.
- i) The...siting...design, mass and scale of development...would maintain, or where possible, enhance local distinctiveness including landscape features" and
 - ii) Impacts on the appearance and character of the landscape would be appropriately mitigated....".
- 6.12 In assessing the proposal against DM30 point i) with the backland location the proposal does not represent high quality design. The proposal involving substantial new buildings arranged in a cul de sac does not maintain or enhance the existing open character of the appeal site. The proposal is contrary to Local Plan Policy DM 30 (i).
- 6.13 In assessing the proposal against DM30 point ii) Local Plan paragraph 4.105 advises "To assist in the successful integration of new development into the countryside the council will ensure Landscape and Visual Impact Assessments are carried out as appropriate to assess suitability and to aid and facilitate the design process".

- 6.14 Landscape and Visual Impact Assessment is the recognised industry standard for assessing landscape harm. Comments from the Council's Landscape officer state that *"Landscape and Visual Impact Assessment would enable officers to use a recognised methodology to determine the landscape and visual impact of the proposal on the locality, in accordance with best practice and guidance (GVLIA3)"*.
- 6.15 Whilst the application site is located in a nationally significant and protected landscape, the applicant chose not to submit this assessment as part of the planning application. The applicant in addition declined the request for this assessment to be carried out during the consideration of the application.
- 6.16 The recognised industry standard guidelines for carrying out Landscape and Visual Impact Assessment are published by the "Landscape Institute and Institute of Environmental Management & Assessment" "Guidelines for Landscape and Visual Impact Assessment". Chapter 7 of these guidelines consider the harm that can be caused to an area by cumulative impacts.
- 6.17 Paragraph 7.17 of the "Guidelines for Landscape and Visual Impact Assessment" advises *"There are many different types of cumulative landscape and visual effect that may need to be considered. They can include:*
- *the effects of an extension to an existing development or the positioning of a new development such that it extends or intensifies the landscape and/or visual effects of the first development.*
 - *the 'filling' of an area with either the same or different types of development over time, such that it may be judged to have substantially altered the landscape resource and views or visual amenity.*
 - *the interactions between different types of development, each of which may have different landscape and/or visual effects and where the total effect is greater than the sum of the parts.*
 - *incremental change as a result of successive individual developments such that the combined landscape and/or visual effect is significant even though the individual effects may not be..."*
- 6.18 With reference to paragraph 7.17 of the "Guidelines for Landscape and Visual Impact Assessment" the proposal introduces new built development on an existing open site. The proposal will *intensify "...the landscape and/or visual effects of the first development" and the filling of the area will have substantially altered the landscape resource and views or visual amenity.*
- 6.19 In addition to Policy DM30, Local Plan policy SP17 advises *"Account should be taken of the Kent Downs Area of Outstanding Natural Beauty Management Plan..."*.
- 6.20 In Chapter 3. Sustainable Development of the Kent Downs AONB Management Plan, paragraph 3.1.4 (page 24) deals with "Cumulative Change". The management plan sets out *"...there is continual pressure for small-scale development and change creating a cumulative impact on the special character and qualities of the AONB. The landscape character assessment review of the Kent Downs continually picked up small scale poorly designed or inappropriately located, housing development, ...each individually small impact taken cumulatively is progressively diminishing the qualities and character of the AONB at a strategic scale"*.
- 6.21 Paragraph 3.1.4 of the AONB Management Plan specifically describes the negative impact the current application will have on the nationally important landscape of the Kent Downs AONB.
- 6.22 In addition to the "Guidelines for Landscape and Visual Impact Assessment" and the Kent Downs Management Plan, cumulative impacts are regularly considered a material consideration by appeal inspectors.

- 6.23 Policy DM30 is concerned with mitigating the impacts of development on the appearance and character of the landscape. The current proposal with regards to layout and appearance represents an urban design approach to a backland site in the countryside and in a protected landscape.
- 6.24 The proposal would unjustifiably consolidate built development which taken individually and cumulatively, would result in visual harm to the intrinsic character and beauty of the wider countryside. The development taken with associated domestic paraphernalia would be harmful to the landscape character of the area. The proposed development results in significant harm to the character and appearance of this part of the countryside designated as Area of Outstanding Natural Beauty AONB.
- 6.25 Overall, the proposal is contrary to the aims of policy DM30 of the Adopted Maidstone Borough Local Plan (2017), and paragraph 176 of the NPPF (2023). These jointly require development to protect, conserve and where possible enhance landscape character, and to be complimentary to the locality, including the scenic beauty of the AONB.



Internal site photograph at eastern end.

Previously developed land and local plan policy DM5.

- 6.26 Policy DM5 of the Local Plan deals with development on previously developed land (brownfield land). The application site was previously a builder's yard and would be classed as previously developed land. It is highlighted that the NPPF definition also states that "*...it should not be assumed that the whole of the curtilage should be developed*".
- 6.27 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.
- 6.28 Taking the points set out in policy DM5 in turn, an assessment is provided below.

- a) The site is not of high environmental value.
- 6.29 Whilst a former builder's yard, the environmental value of the application site comes from its location in the nationally significant Kent Downs AONB. The landscape protection is provided by policy SP17 and paragraph 176 of the NPPF (2023) states that great weight to conserving and enhancing the landscape.
- b) The 'redevelopment' will result in a significant environmental improvement.
c) The density reflects the character and appearance of the area (DM12).
- 6.30 Local Plan 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*". Whilst seeking the efficient use of land, the NPPF advises that decisions should consider the desirability of maintaining an area's prevailing character and setting, and securing well-designed, attractive places (NPPF para 124).
- 6.31 The proposal will increase the bulk, scale, massing, extent, and coverage of built development on the application site. The development is of an urban appearance and layout that results in the loss the existing open site character. The proposal will not result in an environmental improvement.
- 6.32 As set out earlier in this report developing this currently vacant plot for three two-story four bedroom houses would expand the built-up extent of Bredhurst village. It would unjustifiably consolidate built development at the site which taken cumulatively, would result in visual harm to the intrinsic character and beauty of the wider countryside.
- 6.33 The proposed development results in significant harm to the character and appearance of this part of the countryside designated as Area of Outstanding Natural Beauty AONB, and there are no Local Plan policies that support the application.
- d) the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.
- 6.34 Policy SS1 of the Local Plan sets out the spatial strategy and the settlement hierarchy for the borough. This approach directs development to areas of the borough that have been found to be the most sustainable locations for new development. This assessment included considering access by non-motorised transport such as presence of pavements, prospect of linked trips etc.
- 6.35 The hierarchy directs development firstly to the urban area, then the designated rural service centres followed lastly to the larger villages. The supporting text to Policy SS1 explains that development should be delivered where employment, key services, and facilities together with a range of transport choices are available.
- 6.36 The settlement boundary is drawn up to define the area most suitable for growth and development to provide a balanced approach to protection of the environment. This has been established through the local plan process. This balanced approach to development should not be undermined unless there are good reasons to do so.
- 6.37 The application site is not well related to any of the areas specifically identified as sustainable in the Adopted Local Plan. Whilst Bredhurst village provides a limited number of key services and facilities, including a primary school. The nearest facilities are to be found in larger settlements to the north across the M2, access requires a long walk along an unlit and fast-trafficked road with no pedestrian path

which is not convenient or pleasant. Owing to this, reliance on travel by private vehicle to access services and facilities would be inevitable.

- 6.38 Given these factors, the application site is not in a sustainable location and not a location where the Local Plan directs new development. Accordingly, the development would be unacceptable in terms of its location relative to availability of local services and the ability of future occupants of the new houses to utilise more sustainable forms of private transport. On this basis, the proposal would conflict with the locational strategy of the development plan policy SS1 and DM5.
- 6.39 NPPF paragraph 69 states that '*...great weight... should be given "...to the benefits of using suitable sites within existing settlements for homes"*. Bredhurst does not have a defined boundary in the Local Plan, Bredhurst is not a settlement and Bredhurst does not feature on the hierarchy. As set out in the adopted Local Plan, Bredhurst is not a location where new development should be directed.

Residential amenity

- 6.40 Policy DM1 states that proposals will be permitted where they "*...respect the amenities of occupiers of neighbouring properties...by ensuring that development is not exposed to, excessive noise, activity, 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"*.
- 6.41 Local residents are concerned the house on plot 3 in particular, the south facing first floor full height windows would cause overlooking/loss of privacy to the occupiers of existing houses on the adjacent plot. The distance between house of plot 3 and the neighbouring houses in question would be between 20 and 30 metres which is sufficient to avoid any unneighbourly effects.
- 6.42 The distance from the rear elevation of the property on plot 2 and 3 and the dwelling to the east of the site Conder House (rear to rear) would be approximately 46 metres which is acceptable. Consequently, this proposal would maintain acceptable separation distances with neighbouring properties on adjacent plots which would avoid any adverse effect in terms of overshadowing or overlooking.
- 6.43 The principal doors and windows on all three houses would look out onto the front and rear gardens and given the separation distances involved no unacceptable overlooking or loss of privacy would occur. The proposals would not be harmful to the living conditions of occupiers of any neighbouring properties through overlooking or loss of privacy.
- 6.44 The sizes of habitable rooms in all three houses would comply with space standard set out in the emerging draft Maidstone Local Plan. These standards require habitable rooms to be a sufficient size for daily activities of future occupiers and served by a window to allow for natural light. Given the nature of the site, an appropriate boundary treatment between the proposed houses would assist in protecting the amenity of future occupiers.
- 6.45 Policy LPRQ&D7 of the emerging draft Local Plan sets out external amenity space standards. These standards require outdoor amenity space sufficient for an outdoor seating area, small shed, clothes drying area, area of play and planting space (for trees and shrubs). This can be accommodated in a garden with a 10-metre depth and the width of the dwelling. The outdoor amenity space provided at the rear of the houses on plots 2 and 3 would meet these standards. Whilst the outdoor amenity area provided for plot one would not strictly comply this requirement, it would still be sufficient for outdoor amenity activities of future occupier given its

depth. Moreover, as the weight attached to the emerging draft Local Plan is limited at this stage, no overriding planning objection can be raised in this instance.

- 6.46 The application site is located close to the M2 motorway, and as a result, occupiers of the proposed dwellings are likely to be exposed to significant levels of noise and disturbance from passing traffic and the resulting detrimental effect on their living conditions. The application is not supported by a Noise Assessment Report to demonstrate the acoustic environment indoors and outdoors would be within acceptable tolerances. Considering the location of the development and owing to the absence of suitable acoustic assessment demonstrating acceptable attenuation can be achieved, occupiers of the dwellings would likely be subjected to unacceptable levels of noise and disturbance.
- 6.47 Given the above factors, whilst the scheme would provide an adequate outdoor amenity space and levels of privacy for occupiers of the proposed houses, the application has failed to demonstrate that the acoustic environment internally and externally would be within acceptable tolerances. As a result, the proposal would fail to comply with policy DM1 of the Maidstone Borough Local Plan requiring development to secure high quality design and a good standard of amenity for future occupants of buildings.

Highways

- 6.48 The submission indicates the existing drive from Forge Lane would be utilised for the development. Whilst this access would measure just over 4 metres wide and would not be wide enough for two-way passing of vehicles, the presence of passing vehicles along the drive would occur relatively infrequently. Moreover, the limited length and width of this drive would serve to restrict vehicle speeds along it to a significant degree. The extent of visibility along the entrance to drive would be good and this would not present a significant hazard to the safety of those using the drive or drivers and pedestrian entering or leaving the site.
- 6.49 Furthermore, vehicles would normally approach the entrance of at slower speed, therefore if a vehicle had to wait for a short period for another vehicle to enter or leave the application site, this would not create an undue obstruction or have significant implications for the safety of vehicles and pedestrian using Forge Lane. For this reason, the access is acceptable in relation to the free and safe movement of vehicles and pedestrians along Forge Lane. Moreover, owing to the small scale of the development, the intensification of use of the access track would not result in increased risk of danger to drivers and pedestrian using the road.
- 6.50 In terms of trip generation, paragraph 111 of the NPPF (2023) states that development should only be refused on transport grounds if there would an unacceptable impact on highway safety, or the residual cumulative impact of the development would be severe. Owing to the small scale of the development, any increase in car journeys resulting from the proposed scheme would not be significant enough to pose any additional highway safety challenges.
- 6.51 Turning to parking provision and demand, Policy DM23 (Appendix B) of the Maidstone Borough Local Plan sets out the parking standards for the Borough. The policy adopts a flexible approach to minimum and maximum parking standards to reflect local circumstances and the availability of alternative modes of transport to the private car. It also seeks to encourage innovative designs that can sufficiently demonstrate that a provision lower than the minimum standard is feasible and would not have an unacceptable adverse impact on the surrounding locality.
- 6.52 The application includes provision of six car parking spaces in total which amounts to 2 spaces for each property. This level of parking provision is consistent with the

standard in policy DM23 for locations such as this. On this basis, the development would not result in a significant material increase in on street parking demand around the local area or exacerbate any existing parking or highway safety challenges in the local area.

- 6.53 For the above reasons, the scheme would not increase the risk of danger to drivers using local roads. It would comply with policy DM23 of the Maidstone Borough Local Plan and paragraph 111 and 112 (c) of the NPPF (2023) and their requirements that development should create places that are safe, secure, and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Landscaping and ecology

- 6.54 Policy DM3 of the Maidstone Borough Local Plan and paragraph 174 of the NPPF (2023) directs the planning system to contribute to and enhance the natural and local environment. Whilst the application is not supported by a landscaping plan, this can be requested by a planning condition in the event of planning permission being approved. The trees within the site and along its boundaries constitute valuable elements in terms of biodiversity of the site, as well as contributing towards the natural appearance of the site and surrounding area.
- 6.55 The application site is a former builder's yard and the ground on which the new buildings would be positioned is unlikely to have any biodiversity interest. The Preliminary Ecological Appraisal supporting the application indicates that trees within the site boundary and adjacent to site could support nesting birds. The appraisal recommends the installation of a minimum of two bird boxes on mature trees around the site boundaries or on new buildings to provide additional nesting habitat for birds.
- 6.56 The Arboricultural Method Statement supporting the application concludes that the loss of trees associated with the proposal relates solely to C Category trees with a limited life expectancy, and as such, the resultant impact upon local amenity is negligible. The proposed scheme includes a reptile mitigation and relocation zone on the adjacent plot to the north of the site. The submission also indicates the strip of land adjacent to the northern site boundary will be dedicated to biodiversity enhancement which can include provision of a habitat log.
- 6.57 On this basis, the proposal accords with Policies DM1 and DM3 of the Maidstone Local Plan (2016), and paragraph 174 of the NPPF (2023). These policies jointly direct the planning system to contribute to and enhance the natural and local environment.

Other matters

- 6.58 A local resident has commented stating that the plans submitted are materially inaccurate, and that plot 3 would be built on land not in the ownership of the applicant. Land ownership issues are not material considerations that can be assessed in determining this application. The confirmation received from the agent indicates the land upon which the house on plot 3 is proposed sits wholly within land owned and controlled by applicant. It is noted that the correct notices have been served on the owner of the access track.

PUBLIC SECTOR EQUALITY DUTY

- 6.59 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.

CIL

- 6.60 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. CONCLUSION

- 7.01 In summary, the proposal represents unsustainable residential development where future occupants would be reliant on the use of private cars to access services and facilities and in the absence of any overriding justification for three new dwellings at this location, the development is contrary to policies SS1, SP17 and DM5 of the Maidstone Borough Local Plan (Adopted October 2017).
- 7.02 In the absence of an LVIA to demonstrate otherwise, the development would be contrary to the objectives of safeguarding the open, rural character of the countryside and scenic beauty of the AONB advocated in policy SP17 of the Maidstone Borough Local Plan (2017) and policy LPRSP9 of the Emerging Maidstone Draft Local Plan, and the NPPF (2023).
- 7.03 Notwithstanding comments from neighbours, the development would not diminish the standard of living conditions enjoyed by occupiers of existing neighbouring properties and future occupiers of the proposed houses. The proposals does not raise any overriding parking and highway safety challenges. In the absence of a Noise Assessment Report to demonstrate otherwise, the development having regard to its location close to the M2 motorway has failed to establish the acoustic environment both internally and externally would be within acceptable tolerances.
- 7.04 The development provides the benefit of contributing three family sized dwellings to the Borough Council's housing supply, along with the limited economic benefits that would be accrued from the construction process. Taken together, the harm identified is not outweighed by the limited benefits the proposals would entail when assessed against policies of the Adopted Maidstone Borough Local Plan and the NPPF (2023) taken as a whole. Accordingly, the proposal would not represent a sustainable form of development for the purposes of the Adopted Maidstone Local Plan and the NPPF (2023) and there are no material considerations present that justify approval contrary to the local plan.

8. RECOMMENDATION REFUSE PLANNING PERMISSION subject to the following reasons

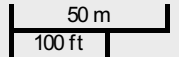
1. The 3 large detached 4 bedroom houses by reason of their design. height, bulk, and layout in this currently open backland location in the countryside and outside any designated settlement, would both individually and cumulatively result in harm to the character and appearance of the local area. The proposal would have a detrimental urbanising impact on the existing character and scenic beauty of the nationally significant landscape AONB with a failure to contribute positively to the conservation and enhancement of this protected landscape. With this identified harm increased by the additional domestic paraphernalia associated with this additional 4 households in this rural location. The proposal is contrary to policies SP17, DM1, DM5 and DM30 of the Local Plan (2017), the Kent Downs AONB Management Plan 2023-2026, and the National Planning Policy Framework (2023).
2. The proposal located outside of any outside any designated settlement, represents unsustainable residential development where future occupants would be reliant on

the use of private cars to access services and facilities and in the absence of any overriding justification for three new dwellings at this location, the development is contrary to policies SS1, SP17 and DM5 of the Maidstone Borough Local Plan (Adopted October 2017) and guidance in the NPPF (2023) relating to sustainable development.

3. The application fails to demonstrate that the proposal will provide an adequate standard of living accommodation for future residents. In this location close to the M2 motorway, and with the absence of a Noise Assessment Report the application fails to demonstrate that the acoustic environment both internally and externally would be within acceptable tolerances. The proposal would fail to comply with policy DM1 of the Maidstone Borough Local Plan requiring development to secure high quality design and a good standard of amenity for future occupants of buildings. The proposal is contrary to policy DM1 of the Maidstone Borough Local Plan (Adopted October 2017) and guidance in the NPPF (2023).

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



Ordnance Survey - data derived from OS Premium

Cricket Ground



22/503566/FULL 62 Maidstone Road, Lenham, Kent, ME17 2QJ

Scale: 1:2500

Printed on: 6/11/2023 at 11:24 AM by JoannaW



REPORT SUMMARY

REFERENCE NO: - 22/503566/FULL		
APPLICATION PROPOSAL: Demolition of existing outbuildings and part of existing garage, and erection of 2. detached chalet houses with associated access and parking.		
ADDRESS: 62 Maidstone Road Lenham Kent ME17 2QJ		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions and planning obligations		
SUMMARY OF REASONS FOR RECOMMENDATION: The development is acceptable regarding the relevant provisions of the Development Plan, Neighbourhood Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Call in from Lenham Parish Council for the reasons in section 4 of this report.		
WARD: Harrietsham And Lenham	PARISH COUNCIL: Lenham	APPLICANT: Mrs Thompson AGENT: JAC Planning
CASE OFFICER: William Fletcher	VALIDATION DATE: 27/09/22	DECISION DUE DATE: 30/06/23
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

04/2417 Outline application for the erection of 1 No dwelling with all matters reserved for future consideration as shown on drawing number 23:583 received on 23/12/04 Refused 16.02.2005.

Site viewed from Maidstone Road (2016)



MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The land to be occupied by the proposed chalet houses is within the settlement boundary of Lenham. The western part of the wedge-shaped site is located outside the settlement boundary.
- 1.02 The application site is currently the side garden of the existing bungalow at 62 Maidstone Road. The application site includes half of an existing double garage and several outbuildings along the rear boundary.
- 1.03 The applicant sets out that within the designated rural service centre of Lenham *"The width of the site is approximately 40 metres ... and the depth approximately 31 metres narrowing down to approximately 16 metres"* and outside the rural service centre *"...the site continues for over 60 metres to the west, tapering to a point at the junction of Maidstone Road and Ashford Road A20"*.

2. PROPOSAL

- 2.01 The application involves demolition of existing outbuildings and half of the existing double garage, and construction of two detached chalet houses.
- 2.02 Each chalet house would have a depth of 9.5m, a breadth of 13.2m and a maximum height of 6.4m with eaves of 2.3m with a gable ended roof form. Each chalet house includes a rear roof addition.
- 2.03 Each chalet house has two off street parking spaces to the front. Elevation drawings show soft landscaping to the front of each dwelling. Parking arrangements and soft landscaping will be conditioned should permission be forthcoming.

Application site (Red line added by case officer)



3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031):
SS1 – Maidstone borough spatial strategy
SP5 – Rural Service Centres
SP8 – Lenham Rural Service Centre
DM1 – Principles of good design
DM11 – Residential garden land

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time.

SS1 – Maidstone borough spatial strategy
SP2 – Maidstone urban area
SP10(a) – Housing mix
SP15 – Principles of good design
HOU2 – Residential extensions, conversions...in the built-up area
HOU5 – Density of residential development
TRA4 – Parking standards (Appendix B)
Q&D6 – Technical Standards
Q&D7 – Private open space standards
Residential extensions SPD (2009)

Lenham Neighbourhood Plan: Policies D1 and D2

Kent Waste and Minerals Plan (amended 2020):
The National Planning Policy Framework (NPPF):
National Planning Practice Guidance (NPPG):

4. LOCAL REPRESENTATIONS

Lenham Parish Council

Objection for the reasons outlined below.

- The site is not part of the approved Lenham Neighbourhood Plan (made on 14th July 2021) which details the siting of some 1500 houses to be built during the period 2017 to 2031 as required by the borough council.
(Officer response: Whilst the site is not part of any designation within the Lenham Neighbourhood Plan, this does not prevent windfall sites from coming forward. The neighbourhood plan does not prevent development and as such this is not a reason to refuse the application. The site is within a settlement boundary and as such, it is an acceptable location for new residential development as set out in the Local Plan).
- Any housing on this site will suffer both from the noise and pollution generated by the A20. During instances of operation Brock the noise and pollution will be constant for 24 hours of the day. Screening from the A20 will certainly be necessary perhaps by acoustic fencing or trees or both.
(Officer response: No objections have been received from Environmental Health consultees based on noise or pollution impacting future occupants. With the adoption of cleaner vehicles air quality is generally improving. Conditions can be imposed requiring acoustic fencing along the northern boundary of the site).
- As stated nearer the A20 within the 50mph limit, speeds will likely be higher and any pedestrians or vehicles exiting from the site will be at severe risk given that there is no pavement and the narrowness of the road itself. We would certainly consider it a reasonable planning condition if approval is given that a pavement is created from the site to join with the pavements further down the Maidstone Road.

(Officer response: Whether or not road users obey highway legislation is not within the remit of the planning system. The dwellings are provided with an appropriate level of off-street parking, future occupants would be at the same risk as the existing dwellings in the road. The development would not be introducing pedestrians into this environment where there were none presently).

- Refusal of the current planning application would be consistent with the Borough Council's recent refusal of the planning application to develop the site of Victoria's nightclub. The net result would be the extension of sporadic development severely eroding the perception and the actuality of the green, undeveloped strategic gap between the villages of Harrietsham and Lenham.
(Officer response: Each application is determined on its own merits a neighbourhood plan does not prevent development taking place. The application site is located within a settlement boundary and would relate to existing dwellings on the northern side of Maidstone Road, this would not be a 'sporadic' form of development).
- The A20 between Charing and Hollingbourne is currently operating at capacity with severe delays experienced at the Leeds Castle roundabouts during both the morning and evening peaks. The Parish Council would request that a cumulative transportation impact including other developments in the vicinity.
(Officer response: It is not assessed that two dwellings would generate so many vehicle movements that the impact could be assessed as being 'severe' as per the NPPF to warrant a refusal. The development is insignificant when compared to the issues relating to the highway network described by the Parish).
- That the development would fall foul of the nutrient neutrality issues in the area.
(Officer response: Following the submission of a Habitats Regulations Assessment, Natural England have confirmed they have no objection to the development in relation to nutrient neutrality).
- That the council maintain its consistent approach to development in the countryside
(Officer response: Land where the houses are proposed is not in the countryside it is in the Lenham Rural Service Centre. The former Victoria's nightclub referred to by the Parish Council is in the countryside.)
- Should the planning officer be minded to approve we would ask that it is called into Committee and would we would wish to make representation at the meeting (summarised). *These points will be responded to below.*

Local residents:

No response to neighbour consultation

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

5.01 No objection

Environmental Health

5.02 No objection subject to conditions.

Natural England

5.03 No objection subject to planning condition or obligation securing mitigation.

6. APPRAISAL

The key issues are:

- Spatial strategy
- Visual impact
- Standard of accommodation
- Neighbouring amenity
- Highways and parking
- Ecology

Spatial Strategy

- 6.01 The new chalet houses are located within the settlement boundary of Lenham which is defined within the settlement hierarchy as a rural service centre. Policy SS1 states that the rural service centres will be the secondary focus for housing development with the emphasis on maintaining and enhancing their role and the provision of services to meet the needs of the local community.
- 6.02 Policy SP5 states that the council will focus new housing development within the rural service centre when it is a minor development such as infilling. Policy DM11 also supports the creation of new buildings within rural service centres.
- 6.03 The application site is a location where adopted policy directs new development (rural service centre second in the hierarchy behind the urban area). Other relevant policy considerations are considered in the following report.

Proposed Block Plan



Development of residential garden land

6.04 The application site is currently garden land to the side of 62 Maidstone Road. Local Plan policy DM 11 advises that within designated settlements development of domestic garden land to create new buildings will be permitted subject to the four criteria ((i) to (iv)) that are considered below.

Criteria DM11 (i). The higher density resulting from the development would not result in significant harm to character and appearance.

- 6.05 Policy DM1 states that development must respond positively to and where possible enhance the character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. DM11 continues stating that the higher density resulting from development must not result in significant harm to the character and appearance of the area.
- 6.06 Policy D1 of the Lenham Neighbourhood Plan states: "*Proposals for new development should seek to optimise the capacity of the site by responding appropriately to the scale, character, materials, grain and architectural rhythm of the existing built form*". Proposals should also demonstrate how they respond to the landscape, local and longer views, and the environment. Policy D2 of the Lenham NP states that proposed development should be in keeping with the character of the existing built form expressed through density, scale, height, massing, materials, and frontages.
- 6.07 The section of Maidstone Road where the application site is located is linear development (32 – 62 Maidstone Road) comprising a mixture of dwelling types including semi-detached and detached two storey dwellings and bungalows.
- 6.08 The plot sizes generally get smaller towards the application site and the Maidstone Road and Ashford Road junction that is at the western end of this linear development. To the east (12 to 30a Maidstone Road) and towards Lenham centre plots are also generally smaller in size. The layout and plot size of the proposed dwellings are in keeping with this local character and layout.
- 6.09 The proposal involves demolition of one half of the existing double garage and the outbuildings on the side garden land of 62 Maidstone Road. The two proposed detached chalet houses are provided with parking to the front and gardens to the rear. The western most unit also has a garden to the side. Whilst there is some variety of facing materials in the local area, the proposed chalet houses use materials to match the adjacent bungalow at 62 Maidstone Road.
- 6.10 The street scene drawing below shows that whilst the proposed dwellings are a metre taller than the existing dwelling, the proposed buildings are single storey in appearance and respect the character of the area. In addition, the layout and spacing of the dwellings reflect the existing character of the streetscene. The development is in keeping with the pattern of development along Maidstone Road.

Proposed streetscene (two proposed chalet houses on the left hand side)



- 6.11 Following the above assessment, the development is found to be in accordance with DM 11 (i) in that the higher density resulting from the development would not result in significant harm to the character and appearance of the area. The application is in accordance with Local Plan policy DM9 (iv) that requires sufficient parking to be provided within the curtilage of the dwelling without diminishing the character of the street scene.

Criteria DM11 (ii). No significant loss of privacy, light or outlook for adjoining properties and/or their curtilages.

- 6.12 In addition to Local Plan policy DM 11, policy DM1 states that development should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties. DM9 (iii) refers to safeguarding the privacy, daylight, sunlight, and maintenance of a pleasant outlook of adjoining residents.
- 6.13 With the separation from neighbouring properties and the chalet house style of the two dwellings, the proposal will not cause harm to the amenities of nearby residents. The proposal is in accordance with Local Plan policy DM1 and DM11 (ii).

Criteria DM11 (iii) Highway access can be provided of an appropriate standard.

- 6.14 Local Plan policy DM 1 states that proposals 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. Local Plan policy DM21 seeks to ensure that the vehicle trips generated by a use can be adequately accommodated on the road network.
- 6.15 NPPF paragraph 111 states "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".
- 6.16 The application site is currently occupied by garage with vehicular access onto Maidstone Road and other neighbouring properties have similar existing access arrangements. The proposal is for the construction of two new dwellings with access on to Maidstone Road.
- 6.17 Whilst there are areas of pavement to the east of the new dwellings, no continuous pavement is provided until after the junction with Swadelands Close, 70 metres from the closest dwelling.
- 6.18 It is accepted that this pedestrian access could be to a better standard, however with the presence of the existing residential area, it is found that this access would not be grounds to refuse planning permission. The small-scale nature of the proposal would make it unreasonable to insist that the applicant seeks to purchase land to provide a pavement extension.
- 6.19 The road is subject to a 30mph speed limit whether or not road users obey highways legislation is not a matter for the planning system. Each dwelling would be provided with two off street parking spaces in accordance with the standards detailed within policy DM23 and appendix B of the Local Plan.
- 6.20 The proposal is in accordance with local plan policy DM1 in that it will "...safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access". The proposal is in accordance with the NPPF as it is acceptable in relation to highway safety and the residual cumulative impacts on the road network are not severe. Planning conditions are recommended seeking provision of cycle parking, and facilities for the storage and collection of waste for each of the two dwellings.
- 6.21 The proposal would provide policy compliant parking provision and would not cause detriment to highway safety in accordance with local plan policies DM1, DM11, DM21 and DM23.

Criteria DM11 (iv) should be no significant increase in noise or disturbance from traffic gaining access to the development.

- 6.22 The access to the new dwellings will be directly from Maidstone Road and the access is a sufficient distance away from other residential dwellings. It is not anticipated that the traffic gaining access to the two dwellings will lead to any significant increase in noise or disturbance.

Standard of accommodation

- 6.23 Local Plan policy DM1 advises that proposals will be permitted where they *"...provide adequate residential amenities for future occupiers of the development..."*. The policy seeks to ensure that occupiers are not *"...exposed to, excessive noise..., overlooking or visual intrusion..."*. The NPPF advises of the importance of good design, creating well designed accommodation with a high standard of amenity for future residents.
- 6.24 Each dwelling has an internal floor space of approximately 150m² which is in accordance with the national space standard for a 3 bed 2 storey dwelling (102m²). The dwellings would be well lit and provide a comfortable environment for future occupants in terms of design and layout.
- 6.25 Whilst not currently adopted, Local Plan Review policy Q&D7 Private Amenity Space requires dwellings to have a rear garden area equal to the ground floor of the dwelling. The two dwellings comply with this area standard, although it is highlighted that the western most dwelling wraps around the side of the dwelling. Despite the lack of depth both dwellings have usable external amenity space.
- 6.26 The application site is existing garden land attached to 62 Maidstone Road and is located between Ashford Road and Maidstone Road. As a result of this location the applicant has submitted an acoustic report in support of this planning application. The acoustic report concludes that with the correct glazing and ventilation, the current proposal will provide an adequate internal environment for future residents. The acoustic report has been considered by the council's environmental health team who recommend that a planning condition is used to request further information on the detailed glazing and ventilation design and measures to reduce external noise levels.

Nutrient neutrality

- 6.27 Regulation 63 of The Conservation of Habitats and Species Regulations 2017 requires an assessment where a project may give rise to significant effects upon any Natura 2000 site including Special Areas of Conservation (SAC) Special Protection Areas (SPA) and RAMSAR Sites
- 6.28 The application site lies within the upper River Stour catchment and is hydrologically connected to the Stodmarsh SAC, SPA and Ramsar site north east of Canterbury as waste water from the site would discharge to the Lenham Waste Water Treatment Works, then the River Stour, which itself enters Stodmarsh.
- 6.29 Since July 2020, Natural England advice is that a likely significant effect on the internationally designated Stodmarsh sites (SAC, SPA and Ramsar) cannot be ruled out due to the increases in wastewater from new residential developments coming forward in the River Stour catchment. This increases phosphate and nitrate pollution to protected habitats by resulting in ecologically damaging eutrophication.
- 6.30 Natural England provide the following advice on Habitats Regulations Assessment in relation to the current application:
- *"Your appropriate assessment concludes that ...that the proposal will not result in adverse effects on the integrity of any of the sites in question. ... Natural*

England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. These mitigation measures include on-site land use change mitigation of an area of 0.06ha from residential urban land to woodland together with off-site land use change mitigation of an area of 0.32ha of land at Pleasant Farm to be converted from farmland to woodland”.

6.31 Natural England provide the following advice on Nutrient Neutrality in relation to the current application:

- *“As submitted, the amount of nutrient mitigation provided from both on-site and off-site land use change is sufficient to achieve nutrient neutrality for this development. Your authority will need to ensure that the mitigation is appropriately secured, monitored, managed, maintained and enforced in perpetuity. Delivery of the mitigation should occur prior to occupation of the proposed dwellings”.*
- *“...the nutrient budget calculations [are] based upon a revised nutrient permit at the Lenham wastewater treatment works (WwTW), dated for upgrade post 01/01/2025. As a result, if planning permission is granted, we advise a suitable condition is applied to ensure occupancy does not occur before the upgrades have been completed at Lenham WwTW”.*

6.32 In response to the comments from Natural England a planning condition is recommended to restrict the occupation of the two dwellings until 2025. It is recommended that the grant of planning permission is subject to a legal agreement to secure the necessary of site mitigation to secure nutrient neutrality and to ensure that this mitigation is in place prior to occupation of the proposed dwellings.

Landscaping and biodiversity.

6.33 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...”. Policy D1 of the Lenham Neighbourhood Plan states: “Design that incorporates opportunities to enhance and provide for net gains for biodiversity will be encouraged”.

6.34 Given the application site is existing managed garden land and buildings they are not considered to offer any beneficial wildlife habitat. To provide biodiversity enhancement a planning condition is recommended seeking measures around the site including bird and bat boxes integral to the new dwelling.

6.35 The submitted arboricultural impact statement includes a tree survey using the BS5837 grading system (Tree graded A, B, C and U). The survey found on the site 5 category C trees (trees of low quality and value: currently in adequate condition to remain until new planting could be established (> 10 years)). and 1 Category U (any existing value would be lost within 10 years, and which should, in the current context, be removed regardless of development).

6.36 The arboricultural impact statement states *“To accommodate the development proposal the removal of T001 and T002 is recommended. G003 is recommended for removal as a priority to ensure impacts to the utility poles are mitigated. Partial removal of G001 and G004 are recommended”.* “It is considered that future planting coupled with the recommended management work will maintain and enhance the sites amenity value within the wider tree scape and uphold the overall tree scape within the area”.

- 6.37 The recommended works include the removal of trees as part of good arboricultural management, with other low value trees removed to facilitate the development. In order to mitigate the loss of existing trees a landscaping planning condition is recommended. Additionally, conditions will be imposed prohibiting development of the remaining 'triangle' of land to the west of the application site which extends beyond the settlement boundary.

PUBLIC SECTOR EQUALITY DUTY

- 6.38 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.

CIL

- 6.39 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. CONCLUSION

- 7.01 The application site is in a location where residential development is accepted within the Local Plan. Visually the development broadly adheres to the pattern of development along Maidstone Road. The development is in accordance with local and national design polices.
- 7.02 The development would not harm the amenity of future occupants or neighbouring properties. The development would not harm the wider highway network or parking in the area.
- 7.03 Subject to conditions the development would not have an adverse impact upon nutrient neutrality. Conditions can be imposed requiring the applicant to provide full details of landscaping and biodiversity enhancements. There is scope to provide significant biodiversity gain on site.

- 8. RECOMMENDATION – GRANT PLANNING PERMISSION** Subject to the following conditions and the prior completion of a legal agreement to secure the heads of terms set out below - 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.

Legal Agreement to require prior payment of monitoring fees.

HEADS OF TERMS

Nutrient neutrality mitigation

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 shall be carried out in accordance with the following approved plans and documents:

Application for planning permission
62MR-EX0.1 Existing Block Plan
62MR-EX0.0 Rev B Existing Location Plan
62MR-EX1.1 Rev A Existing Outbuildings Elevations
62MR-GA0.1 Rev E Block Plan
62MR-GA0.2 Rev E Site Plan
62MR-GA0.4 Rev C Visibility Splays
62MR-GA0.5 Rev C Visibility Splays
62MR-GA1.1 Rev B Typical Floor Plans
62MR-GA2.1 Rev D Front and Rear Elevations
62MR-GA2.2 Rev B Street Scene
62MR-GA2.3 Rev A Side Elevations
Revised Nutrient Assessment
Appendix A - Considine Report
Draft HRA
HRA Screening
Adopted HRA
Parking and Access Supplementary Note
Tree Survey
Community Consultation
Newsletter
Design and Access Statement

Reason: To ensure the development is carried out to an acceptable visual standard.

- 3) The dwellings hereby approved shall not be occupied until 1 January 2025.

Reason: In the interests of nutrient neutrality and to ensure that the upgrade works at Lenham WwTW have been completed prior to occupation.

- 4) 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.

- 5) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

- 6) The development hereby approved shall not commence above ground level until a hard and soft landscape scheme has been submitted to and approved in writing by the local planning authority. The scheme shall
- (a) be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012)
 - (b) 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,
 - (c) provide details of new on-site planting in a planting specification (location, spacing, species, quantity, maturity).

- (d) provide landscape implementation details and timetable
- (e) provide a [5] year landscape management plan

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- 7) The approved landscape details associated with individual dwellings (including private gardens) shall be completed by the end of the first planting season (October to February) following first occupation of the individual dwelling hereby approved. The approved landscape details associated with communal or shared areas or areas outside individual plots shall be completed by the end of the first planting season (October to February) following occupation of the final dwelling. Within five years from occupation of the final property if any of the approved landscape details, are removed, 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.

- 8) The development of the relevant dwelling hereby approved shall not commence above slab level until (with reference to the Able Acoustics (ref P1486/01 dated January 2022)) details of the glazing and ventilation specification for the relevant dwellings and measures to reduce noise levels in external amenity areas shall be submitted to and approved in writing by the local planning authority. The approved measures shall be in place prior to first occupation of the relevant dwelling, with the approved measures retained permanently thereafter.

Reason: In the interests of residential amenity.

- 9) The development hereby approved shall not commence above slab level until details 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 integrated methods into the dwellings by means such as swift bricks, bat tube or bricks. The scheme shall also include details of enhancements around the sites such as bird/bat boxes and insect habitats. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

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

- 10) All cut timber/wood between, together with any senescent and rotting wood, should be retained and stacked safely on site for the colonisation of saproxylic organisms, except where an alternative proposal has been submitted to and approved in writing by the local planning authority.

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

- 11) No further development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out within the land to the west of the settlement boundary as depicted within drawing 62MR-GA0.1 Rev E Block Plan. No plant/materials/machinery shall be stored in this area during the construction period.

Reason: To ensure a satisfactory appearance to the development, to safeguard the enjoyment of their properties by existing and prospective occupiers and in the interests of wildlife.

- 12) The dwellings hereby approved shall not be occupied until the refuse and cycle storage indicated in drawing 62MR-GA0.2 Rev E Site Plan has been provided. The provision shall be maintained and retained thereafter.

Reason: To safeguard the amenity of the area in general and future occupants.

- 13) 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:
- a) be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) with reference to environmental zone E1.
 - b) be in accordance with the recommendations of Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'.
 - c) include a layout plan with beam orientation.
 - d) a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles).
 - e) an ISO lux plan showing light spill.

The scheme of lighting shall be installed, maintained, and operated thereafter in accordance with the approved scheme.

Reason: To safeguard residential amenity, wildlife and to protect dark skies and prevent undue light pollution, in accordance with the maintenance of the character and quality of the countryside.

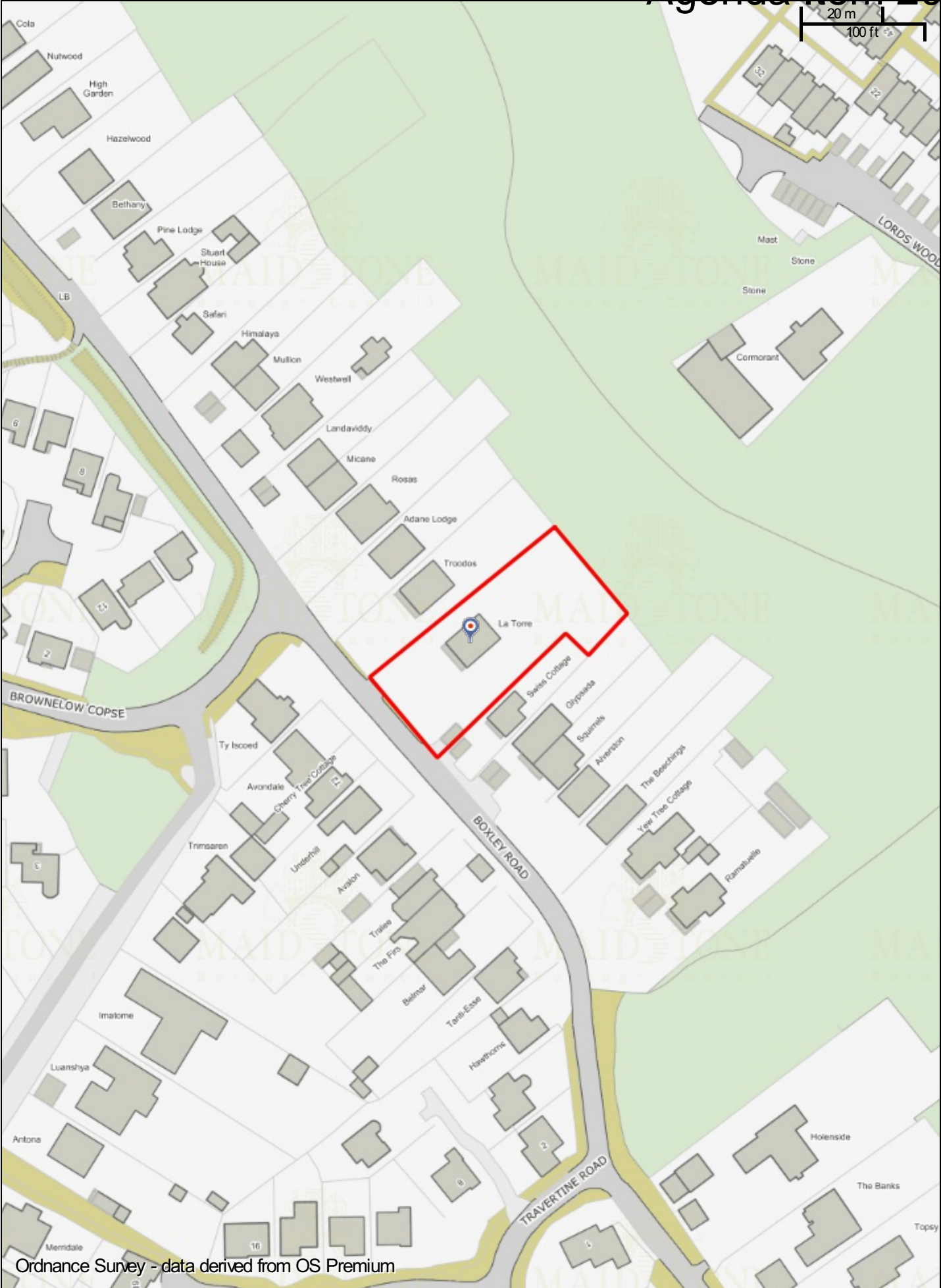
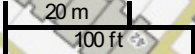
- 14) No development including site clearance shall take place until tree protection is in place for all trees both within the red line application site boundary, and within falling distance of the red line application site boundary. The tree protection shall be in accordance with BS 5837 and maintained until all equipment, machinery and any surplus materials have been removed from the 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.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 15) Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition and Construction. The construction of the development shall then be carried out in accordance with the approved methodology.

Reason: To safeguard the amenity of the area in general.

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

23/504229/FULL La Torre, Boxley Road, Walderslade, Kent, ME5 9JE

Scale: 1:1250

Printed on: 6/11/2023 at 11:28 AM by JoannaW



© Astun Technology Ltd

REPORT SUMMARY

REFERENCE NO: - 23/504229/FULL		
APPLICATION PROPOSAL: Conversion of existing 3no. flats to a single residential dwelling, including erection of 2no. rear and 1no. front dormers, and erection of 1no. detached dwelling with associated parking		
ADDRESS: La Torre, Boxley Road Walderslade, Kent, ME5 9JE		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The development is acceptable regarding the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Boxley Parish Council have called the application to committee based on the comments set out below at paragraph 4.01 of this report.		
WARD: Boxley	PARISH COUNCIL: Boxley	APPLICANT: Mr F Fard AGENT: Colin Smith Planning Ltd
CASE OFFICER: Tony Ryan	VALIDATION DATE: 20/09/23	DECISION DUE DATE: 15/11/2023
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

- a) **20/502292/FULL:** Erection of a detached dwelling - Refused 07.08.2020 for the following reasons:
 - i) Height, scale, bulk, and siting will give a cramped appearance out of keeping and detrimental to local character.
 - ii) Proximity and height will have overbearing impact on neighbours and the flank windows of apartments within 'La Torre' will lose outlook and light. Terraces and balconies due to location, height and proximity will harm the privacy of neighbouring dwellings and their gardens.
 - iii) Inadequate on-site parking and turning and likely conflict between vehicle use from households sharing use of a steep and narrow driveway which accesses onto a lane without footways or streetlighting.
 - iv) Due to lack of arboricultural assessment, impact from parking provision on trees with significant amenity value is unclear.

- b) **20/503848/FULL:** Erection of a detached dwelling and engineering to rebuild retaining wall to widen driveway. (Resubmission of 20/502292/FULL)- Refused 17.11.2020 for the same reasons as 20/502292/FULL which are listed above.

- c) **22/501592/FULL:** Erection of detached dwelling. (NB: In addition to the new detached dwelling, the current application now also includes the conversion of the property called 'La Torre' to a single dwelling and roof extensions) Refused 14.06.2022 for the following reasons:
 - i) Siting, massing and design, and loss of the green visual gap would be obtrusive with harm to local character and the appearance of the streetscene. Cramped appearance out of keeping and detrimental to character. Identified harm

- exacerbated by the loss of the Hornbeam tree which had significant value.
- ii) Proximity and height will result in an overbearing impact to the rear elevation and garden of Swiss Cottage and the flank windows of apartments within La Torre in terms of loss of outlook and natural light.
- d) Appeal against the decision to refuse **22/501592/FULL** – Appeal dismissed on a single issue relating to the impact on amenities of neighbouring property known as 'La Torre'. The Inspector made the following summarised points:

Neighbour amenity

- i) Main consideration were the three flats in neighbouring building 'La Torre' (owned by the applicant/appellant) and neighbouring dwelling 'Swiss Cottage'.
- ii) Scale found to be overbearing due to proximity of proposed two-storey flank wall from side elevation window of 'La Torre'.
- iii) Whilst some windows are obscure glazed, no substantive evidence provided on natural light for occupiers of the three flats of 'La Torre'.
- iv) Unacceptable adverse impact on living conditions of occupiers of the three flats.
- v) As proposed house only visible from oblique angles from the rear windows of Swiss Cottage, no overbearing impact or loss of light.
- vi) Separation distance between new dwelling and Swiss Cottage garden is sufficient to avoid adverse impact on outlook or loss of light.

Character and appearance

- i) Existing gaps to both sides of 'La Torre' much larger than those typical within the surrounding area with 'La Torre' having a unusually spacious garden.
- ii) Whilst gap would be reduced significantly, it would nonetheless reflect the broader pattern and density of existing development.
- iii) Maximum height of proposed house comparable to neighbouring dwellings.
- iv) Proposal would not be overly prominent or obtrusive and the overall scale, bulk and massing would assimilate well with neighbouring buildings.
- v) The Hornbeam tree referred to by the Council has already been removed and site contributes little to local character.
- vi) Proposal still allows views towards the ancient woodland to the rear of the site.

MAIN REPORT

1. DESCRIPTION OF SITE.

- 1.01 The application site is in the Maidstone urban area on the northeast side of Boxley Road just to the south of the junction with Brownelow Copse. A linear area of designated ancient woodland to the rear of the site extends a significant distance to the rear of properties fronting Boxley Road. A Tree Preservation Order also in place for this land (Reference: 491/TPO Woodland and trees at Beechen Bank, Walderslade).
- 1.02 The application site and neighbouring dwellings are on sloping ground with buildings set above the level of the road. This change in level is visible in the 'La Torre' elevations with three building floors to the front elevation and two floors to the rear elevation. 'La Torre' is currently converted into three residential dwellings (2 flats and a maisonette). The existing building has a total of 5 off street car parking spaces (one with direct access from the street and the others from a sloping access ramp) and a garage.
- 1.03 'La Torre' is unique along this stretch of Boxley Road with a building plot significantly wider than other properties. There is greater separation between 'La Torre' and 'Troodos' to the northwest and noticeably from 'Swiss Cottage' to the south east. The application site comprises the building called 'La Torre' and garden land to the southeast (side) of the existing dwelling.

2. PROPOSAL

2.01 The proposal is in the two parts that are set out below:

- Firstly, conversion of the existing property 'La Torre' from 3 residential units (2 one bedroom flats and a one bedroom maisonette) to a single residential 4 bedroom dwelling. The conversion includes a front roof extension, two dormer windows to the rear elevation and provision of a double garage at lower ground level. The conversion and extension to the existing dwelling did not form part of the earlier refused planning applications.

Fig 1: 'La Torre' elevation drawings



- Secondly, construction of a detached 3 bedroom two storey dwelling on existing garden land to the side of 'La Torre'. Internally the ground and first floors of the proposed house are split level to account for the changes in external ground levels.

Fig 2: Street scene drawing – proposed.



3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031):

Policy SS1 Maidstone borough spatial strategy
Policy SP23 Sustainable transport
Policy DM1 Principles of good design
Policy DM3 Natural environment
Policy DM9 Redevelopment in the built up area.
Policy DM11 Residential garden land
Policy DM12 Density of development
Policy DM21 Assessing the transport impacts of development.
Policy DM23 Parking standards

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound are out to public consultation, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract moderate weight at the current time.

SS1 – Maidstone borough spatial strategy
SP2 – Maidstone urban area
SP10(a) – Housing mix
SP15 – Principles of good design
HOU2 – Residential extensions, conversions...in the built-up area
HOU5 – Density of residential development
TRA4 – Parking standards (Appendix B)
Q&D6 – Technical Standards
Q&D7 – Private open space standards
Residential extensions SPD (2009)

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

4. LOCAL REPRESENTATIONS

Boxley Parish Council

4.01 Objection on following grounds:

- a) Siting, size, and design will result in a cramped appearance.
- b) Overdevelopment of garden land with loss of wildlife habitat.
- c) Overbearing impact on both La Torre and Swiss Cottage
- d) Loss of outlook and light for La Torre and loss of light and privacy to rear and garden of Swiss Cottage.
- e) The hornbeam tree 'has' significant amenity value and its loss 'would' have a negative impact on the street scene".
- f) Inadequate off-street parking which will lead to more on street parking where demand is high.
- g) If officers are minded to approval Boxley Parish Council would like this application determined by the Planning Committee.

Neighbour consultation

4.02 Representations received from 2 residents objecting on the following (summarised) grounds:

- a) Scale, bulk, and siting will give a cramped appearance to the street scene, out of keeping and detrimental to the character of the area.
- b) Will result in the loss of the 'green gap' which is of amenity value allowing views of the ancient woodland.
- c) If approved will set a precedent for new houses in similar gaps with the detrimental impact on the character of the area.
- d) The new house will have an overbearing impact on neighbouring dwellings particularly outlook and light to the ground floor side windows to Swiss Cottage.
- e) The upstairs windows to the rear elevation will result in a loss of privacy to Swiss Cottage, La Torre and Glypsada.
- f) Vehicle access to the elevated vehicle bay will involve reversing on to Boxley Road that does not footpaths or streetlighting.
- g) Elevated bay will adversely impact the amenity of occupiers of Swiss Cottage.
- h) Parking on the elevated bay will adversely impact visual character.
- i) Will reduce flood storage capacity and is likely to lead to flash floods.

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)

Environmental Health (comments on 22/501592/FULL)

5.01 No objection subject to conditions

Kent Highways (comments on 22/501592/FULL)

5.02 No objection subject to conditions

Forestry Commission

5.03 Standing Advice on ancient woodland.

Tree Officer (comments on 22/501592/FULL)

5.04 No objections subject to conditions but it is unfortunate the Hornbeam Tree is removed.

6. APPRAISAL

6.01 The key issues are:

- Spatial strategy
- Development of residential garden land (including amenity and highways)
- Design siting and appearance
- Landscaping, sustainability, and biodiversity

Spatial strategy

6.02 Local Plan policy SS1 (Maidstone Borough spatial strategy) states that the focus for new development in the borough will be Maidstone urban area (as the largest and most sustainable location in the borough) followed by the designated rural service centres and then the designated larger villages.

6.03 The application site is in the Maidstone urban area. As the most sustainable location in the borough the location is therefore generally suitable for new residential development subject to the consideration of other adopted planning policies and assessing its detailed impact.

Development of residential garden land

6.04 The application site is currently garden land to the side of the converted building known as 'La Torre'. Local Plan policy DM 11 advises that within designated

Criteria DM11 (ii). No significant loss of privacy, light or outlook for adjoining properties and/or their curtilages.

6.10 In addition to Local Plan policy DM 11, policy DM1 states that development should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties. DM9 (iii) refers to safeguarding the privacy, daylight, sunlight, and maintenance of a pleasant outlook of adjoining residents.

- 'La Torre' (existing retained building with proposed conversion to a single unit)

6.11 The appeal on the earlier planning application was dismissed on a single ground relating to the impact on the residential amenity of the occupiers of 'La Torre'.

6.12 The appeal decision found that due to the proximity of the proposed two-storey flank wall of the detached dwelling, the scale of the building would be overbearing on the side elevation window of 'La Torre'. The appeal decision sets out "Whilst some windows are obscure glazed, no substantive evidence provided on natural light for occupiers of the three flats of 'La Torre'.

6.13 In response to the appeal conclusions, the current application now involves the conversion of 'La Torre' from three residential units to a single dwelling. The conversion allows greater flexibility in the internal layout of the building and the 6 existing side elevation windows (2 per floor) will be reduced to one window. The retained window serves a bathroom at first floor. The bathroom window is level with the rear elevation of the new house, and there is circa 2.1 metre separation between the buildings. A bathroom is also a non-habitable space where natural light is not essential.

Fig 4: Block plans

Proposal considered at appeal.
(22/501592/FULL)

Current application
(23/504229/FULL)



- 'Swiss Cottage' (adjacent dwelling to the southeast of La Torre)

6.14 The standard starting measure of potential loss of sunlight is the 45° rule. The proposal passes this test, with the new building behind a notional line drawn from the middle of the rear elevation of Swiss Cottage at an angle of 45°. With the path of the sun in the southern half of the sky and the new building to the northwest of Swiss Cottage, there will be minimal resulting overshadowing.

6.15 The position of the new house remains the same as that considered as part of the appeal, separated from Swiss Cottage by circa 2.9 metres. The appeal decision found that the proposal would have no overbearing impact or loss of light. This conclusion

is reached because the proposed house would only be visible from oblique angles from the rear windows of Swiss Cottage. The appeal decision concluded that the separation distance between the new house and Swiss Cottage was sufficient to avoid adverse impact on outlook or loss of light.

- 6.16 Views towards Swiss Cottage from a small secondary ground floor lounge window in the new house will be screened by boundary treatments and a planning condition will require the first floor bathroom window to be fitted with obscured glass. The windows to the rear and front elevations of the new house do not face towards Swiss Cottage or its rear garden. In this context, the proposal will not result in a loss of privacy to the occupiers of Swiss Cottage.

Fig 5: Proposed new build dwelling rear and side elevations.



- 6.17 The dwelling known as 'Glypsada' mentioned in a neighbour consultation response is further away from the application site beyond Swiss Cottage. There is no harm identified to this dwelling or its garden.
- 6.18 A neighbour consultation response has raised concerns relating to the amenity impact from an 'elevated vehicle bay'. This 'elevated vehicle bay' is at the closest point circa 7.5 metres from the front elevation of Swiss Cottage. The 'elevated vehicle bay' is parallel to Boxley Road (in front of the location for the new house) and is one of four off street parking spaces located above the level of the Boxley Road carriageway assessed via an existing ramp. The other three spaces are directly in front of 'La Torre' (a fifth space and garage are accessed directly off Boxley Road).
- 6.19 All these five car parking spaces are existing and linked to the current three residential dwellings. The existing off street parking requirement is for three car parking spaces (1x space for each dwelling). The proposal provides two four-bedroom houses requiring a total of 4 off street parking spaces (2x spaces for each dwelling). With this background it is not anticipated that the parking spaces or the level of future use will be significantly different than the current situation. Cars parking in similar locations to the building frontages above the level of the road are also common locally with examples including, Westhill, Pine Lodge and Hazelwood to the north west
- 6.20 The application is in accordance with Local Plan policy DM9 (iv) that requires sufficient parking to be provided within the curtilage of the dwelling without diminishing the character of the street scene.

Criteria DM11 (iii) Highway access can be provided of an appropriate standard.

- 6.21 Local Plan policy DM 1 states that proposals 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. Local Plan policy DM21 seeks to ensure that the vehicle trips generated by a use can be adequately accommodated on the road network.
- 6.22 The highway access is existing and considered acceptable for the anticipated level of use resulting from the proposal.
- 6.23 There was no objection from KCC highways when they considered the access and parking arrangements. Highway matters did not form part of the Council's reasons for previously refusing permission and they were not raised during the consideration of the appeal. Planning conditions are recommended seeking provision of cycle parking, and facilities for the storage and collection of waste for each of the two dwellings.
- 6.24 The proposal would provide policy compliant parking provision and would not cause detriment to highway safety in accordance with local plan policies DM1, DM11 and DM21.

Criteria DM11 (iv) should be no significant increase in noise or disturbance from traffic gaining access to the development.

- 6.25 The number of households on the application site will be reduced (3 to 2 houses) with standards showing the difference in demand to be one additional car parking space. It is not anticipated that the traffic gaining access to the two family dwellings will lead to any significant increase in noise or disturbance.

Design siting and appearance

- 6.26 Policy DM 9 requires the scale, height, form, appearance and siting of the proposal to fit unobtrusively with the existing building where retained and the character of the street scene and/or its context. The traditional boundary treatment of an area would be retained and, where feasible, reinforced. Policy DM1 requires development to respond positively to local character especially in relation to scale, height, materials, detailing, mass, bulk, articulation, and site coverage.
- 6.27 The proposed new dwelling respects and continues the pattern of existing development, providing a step between the adjacent building footprints of 'La Torre' and 'Swiss Cottage'. The scale massing and detailing of the proposed dwelling including the roof form are in keeping with the other houses in the locality, and in keeping with surrounding built form.
- 6.28 The facing materials for the new dwelling are red brick for the external walls and brown plain tiles, with interest and relief provided by a rendered section. Whilst there is some variety locally in terms of facing materials, both 'La Torre' and 'Swiss Cottage' are constructed of red brick. The brown plain tiles will also be in keeping with the majority of nearby properties.
- 6.29 The appeal decision found "*The proposed development would be set within the slope of the land such that its maximum height would be comparable with the dwellings located either side...The proposal would not be overly prominent or obtrusive and the overall scale, bulk and massing would assimilate well with neighbouring buildings. The proposed dwelling would also be set back significantly from Boxley Road. As such, whilst the land rises from the road the proposal would not be a prominent or harmful feature of the street-scene*".

- 6.30 The changes to the external appearance of the retained building include a front roof extension and two dormer windows to the rear elevation. The Council's SPD guidance on residential extensions advises that front roof extensions are likely to be acceptable where these front roof extensions currently form part of local character. There are existing front roof extensions to several neighbouring properties, including the three houses ('Troodos', 'Adane Lodge' and 'Rosas') to the north west of 'La Torre' and other houses beyond. In this context the proposed front extension to the application property and the rear dormers are in keeping with the general character of the area.
- 6.31 The new dwelling is in keeping with the existing character, pattern and layout of the surrounding built environment and subject to the imposition of conditions, its visual impact would accord with local plan policies DM1 and DM9.

Landscaping, sustainability, and biodiversity

- 6.32 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...". DM3 states the need to appraise the value of the borough's natural environment through the provision of an ecological evaluation of development sites. Policy DM 3 requires protection of Ancient Woodland and trees with significant amenity value.
- 6.33 Given the application site is existing managed garden land it is not considered to offer any beneficial wildlife habitat. To provide biodiversity enhancement a planning condition is recommended seeking measures around the site including bird and bat boxes integral to the new dwelling. Landscape conditions are also recommended.
- 6.34 There is designated ancient woodland located adjacent to the rear boundary of the application site. National guidance is that ancient woodland should be provided with a buffer zone of at least 15 metres avoid root damage. The new dwelling will be located more than 30 metres from the ancient woodland.
- 6.35 Consultation responses have referred to a Hornbeam tree was previously on the application site. The applicant has confirmed that this tree has not been on the site for 18 months. The appeal decision letter states "*The Hornbeam tree referred to by the Council appears to have already been removed. Indeed, the site currently contributes little to the character of the surrounding area. The Council implies that the appeal site comprises a green visual gap. However, the proposal would still afford views from the highway towards the ancient woodland to the rear of the appeal site. As such, the existing gap is not particularly important and is actually an uncharacteristic feature of the area*".
- 6.36 A planning condition is recommended to seek on site renewable energy generation to cover 10% of predicted energy requirements of the proposed houses.

PUBLIC SECTOR EQUALITY DUTY

- 6.37 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.

CIL

- 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. CONCLUSION

7.01 The proposal would introduce an additional dwelling into a sustainable location of an appropriate design, layout, and appearance and without harm to visual or neighbouring amenity or highway safety. With suitable conditions the proposal is acceptable, and it is recommended that planning permission is granted.

8. 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.

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

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

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings numbered - 2332 01, 2332 02, 2332 03, 2332 04, 2332 05, 2332 06, 2332 07, 2332 08, 2332 09, 2332 10, 2332 11, 2332 12, 2332 13, Arboricultural Impact Assessment and Method Statement, Planning Design and Access Statement

Reason: To clarify which plans have been approved.

(3) Prior to first occupation of the approved new build dwelling, the approved conversion of the existing building ('La Torre') to a single family dwelling shall be complete with the converted building ready for single family occupation.

Reason: In the interests of residential amenity and with reference to the conclusions of the appeal decision letter dated 31 July 2023 reference APP/U2235/W/22/33045

(4) The materials to be used in the development hereby approved shall be as indicated in the approved Design and Access Statement. The materials shall be permanently retained thereafter.

Reason: To ensure a satisfactory appearance to the development.

(5) The new build dwelling hereby approved shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation of the new build dwelling hereby approved and retained and maintained thereafter.

Reason: To ensure an energy efficient form of development.

(6) Prior to the first occupation of the relevant dwelling hereby approved ((i) conversion and (ii) new build), facilities for (a) the storage and screening of refuse bins, and (b) the collection of refuse bins, and (c) secure bicycle storage for the dwelling to be occupied shall be in place that are in accordance with details that have previously been submitted to and approved by the Local Planning Authority. These details will

be retained and maintained as such thereafter.

Reason: In the interests of amenity, to promote sustainable travel choices and the reduction of CO2 emissions.

- (7) Prior to the first occupation of the relevant dwelling hereby approved ((i) conversion and (ii) new build), a scheme for the enhancement of biodiversity on the dwelling to be occupied and external areas of the plot shall have been implemented that is in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the buildings by means such as swift bricks, bat tube or bricks and measures such as bug hotels in the open areas of the site. All features shall be retained and maintained permanently thereafter.

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

- (8) Prior to the first occupation of the relevant dwelling hereby approved ((i) conversion and (ii) new build), landscaping shall be in place for the dwelling to be occupied that is in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The landscaping shall
- show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed.
 - be designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012).
 - include a planting specification (species, quantities, spacing and maturity),
 - include a programme of implementation.
 - include a long-term [5] year management plan.
 - include measures to reduce the current areas of hard surfacing and maximise soft landscaping especially on the site frontage.
 - provide details of planting mitigation and enhancement.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- (9) Any trees or plants, which, within a period of 10 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of same size and species.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- (10) Prior to first occupation of the relevant dwelling the parking/turning areas shown on the approved plans shall be complete and available for occupiers 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.

- (11) Upon completion of the two approved dwellings, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

- (12) Prior to first occupation of the two dwellings hereby approved the upper floor windows to the side elevations of the dwelling to be occupied shall be obscured glazed (Pilkington level 3 or above) and non-openable below a height of 1.7 metres from internal finished floor level and retained as such for the lifetime of the development.

Reason: In the interests of residential amenity.

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

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 16TH NOVEMBER 2023**

APPEAL DECISIONS:

- 1. 22/501417/AGRIC** **Prior notification for provision of agricultural access track. For its prior approval to: Siting.**

APPEAL: ALLOWED

Wanshurst Green Farm
Battle Lane
Marden
Kent
TN12 9DF

(Delegated)

- 2. 21/505841/OUT** **Outline application for the construction of up to 2,600 sqm of employment floor space (use classes B2 general industrial, B8 storage and distribution and E(g)(I-III) Offices to carry out any operational or administrative functions, research and development of products or processes and Industrial processes. (Access only being Sought).**

APPEAL: DISMISSED

Land West Of Northdown Business Park
Ashford Road
Lenham
Kent
ME17 2DL

(Delegated)

- 3. 22/505409/OUT** **Outline planning permission for the construction of up to 1,687 sqm of employment floor space (use classes B2 general industrial, B8 storage and distribution and E(g)(I-III) Offices to carry out any operational or administrative**

functions, research and development of products or processes and Industrial processes (Access being sought) (Resubmission of 21/505841/OUT).

APPEAL: DISMISSED

Land West Of Northdown Business Park
Ashford Road
Lenham
Kent
ME17 2DL

(Delegated)

4. 21/506046/LDCEX

Lawful Development Certificate (Existing) to establish the current use as a residential accommodation for the manager of the touring caravan and adjacent camping area. (Resubmission of 21/502719/LDCEX)
Lawful Development Certificate (Existing) to establish the current use as a residential accommodation for the manager of the touring caravan and adjacent camping area.

APPEAL: DISMISSED

Building 2 Forstal Farm
Forstal Lane
Coxheath
Kent
ME17 4QF

(Delegated)
