

# PLANNING COMMITTEE MEETING

Date: Thursday 18 January 2024  
Time: 6.00 pm  
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.*

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<b><u>AGENDA</u></b>	<b><u>Page No.</u></b>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Notification of Visiting Members	
4. Items withdrawn from the Agenda	
5. Date of Adjourned Meeting - 25 January 2024	
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 14 December 2023	1 - 4
11. Presentation of Petitions (if any)	
12. Deferred Items	5 - 6
13. 23/502677/FULL 3 Woodlands, Boxley, Kent, ME5 9JX	7 - 23

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**Issued on Wednesday 10 January 2024**  
**Over/:**

**Continued**

*Alison Broom*

**Alison Broom, Chief Executive**

14.	23/504516/FULL Leeds And Broomfield Cricket Club, Burberry Lane, Leeds, Maidstone, Kent, ME17 1RH	24 - 31
15.	23/504913/FULL Cliff House, Cliff Hill, Boughton Monchelsea, Maidstone, Kent, ME17 4NQ	32 - 51
16.	23/504867/FULL Land At Lewis Court, Green Lane, Boughton Monchelsea, Maidstone, Kent, ME17 4LF	52 - 66
17.	Appeal Decisions	67 - 69

## **PLEASE NOTE**

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

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

**For full details of all papers relevant to the reports on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection; please follow this link:**

**<https://pa.midkent.gov.uk/online-applications/>**

## **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

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In order to speak at this meeting, please contact Democratic Services using the contact details above, by 4 p.m. on Wednesday 17 January 2024. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated for each application on a first come, first served basis.

To find out more about the work of the Committee, please visit the **[Council's Website](#)**.

## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

#### MINUTES OF THE MEETING HELD ON THURSDAY 14 DECEMBER 2023

##### Attendees:

<b>Committee Members:</b>	<b>Councillor Denis Spooner (Chairman) and Councillors Cox, English, Mrs Gooch, Harwood, Hastie, Holmes, Jeffery, Kimmance, McKenna, Russell, Springett and D Wilkinson</b>
<b>Visiting Members:</b>	<b>Councillor Trzebinski</b>

##### 189. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Perry and Riordan.

##### 190. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

- Councillor Hastie for Councillor Riordan
- Councillor Springett for Councillor Perry

##### 191. NOTIFICATION OF VISITING MEMBERS

Councillor Trzebinski was present as Visiting Member for Item 16 – Field Adjacent to Dancing Green, Lenham Road, Headcorn, Kent.

##### 192. ITEMS WITHDRAWN FROM THE AGENDA

There were no items withdrawn from the agenda.

##### 193. 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.

##### 194. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

##### 195. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

13.	23/503252/FULL – Salts Farm, Salts Lane, Loose Kent	Councillors Cox, English, Gooch, Harwood, Holmes, Jeffery, Kimmance, McKenna, Russell, Spooner, Springett, Wilkinson
14.	23/503253/LBC – Salts Farm, Salts Lane, Loose Kent	Councillors Cox, English, Harwood, Holmes, Jeffery, Kimmance, McKenna, Russell, Spooner, Springett, Wilkinson

196. EXEMPT ITEMS

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

197. MINUTES OF THE MEETING HELD ON 16 NOVEMBER 2023 ADJOURNED TO 23 NOVEMBER 2023

**RESOLVED:** That the Minutes of the meeting held on 16 November 2023 adjourned to 23 November 2023 be approved as a correct record and signed.

198. PRESENTATION OF PETITIONS (IF ANY)

There were no petitions.

199. DEFERRED ITEMS

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

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 Head of Development Management advised the Committee that additional information was still awaited on both items.

200. 23/502511/FULL FIELD ADJACENT TO DANCING GREEN, LENHAM ROAD, HEADCORN, KENT

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

**RESOLVED:** That permission be granted, without the requirement for a S106 unilateral undertaking, subject to the conditions and informative set out in the report, as amended by the urgent update report, and the additional condition set out in the 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: 12 – For 0 – Against 0 – Abstentions

201. 23/503671/FULL MONTROSE, SUTTON ROAD, LANGLEY, MAIDSTONE, KENT

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

Mr Jenkins, for the applicant, addressed the meeting.

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

Negotiate with the applicant regarding the architectural quality of the development and to retain the landscape character;

Seek a condition that retains cordwood from tree felling;

Amend condition 5 (biodiversity) to seek a biodiversity net gain of 20%; and

Amend condition 6 (ecology) to remove the word 'not' from the first sentence, to read "The development hereby approved shall only proceed (including site clearance), in accordance with the advice in the Preliminary Ecological Appraisal (Arbtech, May 2023)."

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor Hastie joined the meeting after consideration of this application (6.11p.m.)

202. 23/503252/FULL SALTS FARM, SALTS LANE, LOOSE, KENT

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

Mr Durr, for the applicant, addressed the meeting.

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 change from a hardstanding to semi permeable surface.

The removal of permitted development rights on hardstanding.

The strengthening of condition 14 (Renewables) to require the optimal efficiency on renewables.

The strengthening of condition 18 (Biodiversity) to require a Biodiversity target of 20%.

A condition to soften the lighting impact on the landscape interface with the woodland.

The inclusion of a Construction Management Plan.

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: 13 – For 0 – Against 0 – Abstentions

203. 23/503253/LBC SALTS FARM, SALTS LANE, LOOSE, KENT

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

Mr Durr, for the applicant, addressed the meeting.

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

**RESOLVED:** That listed building consent 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: 13 – For 0 – Against 0 – Abstentions

204. APPEAL DECISIONS

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

205. DURATION OF MEETING

6.00 p.m. to 6.57 p.m.

## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

**18 JANUARY 2024**

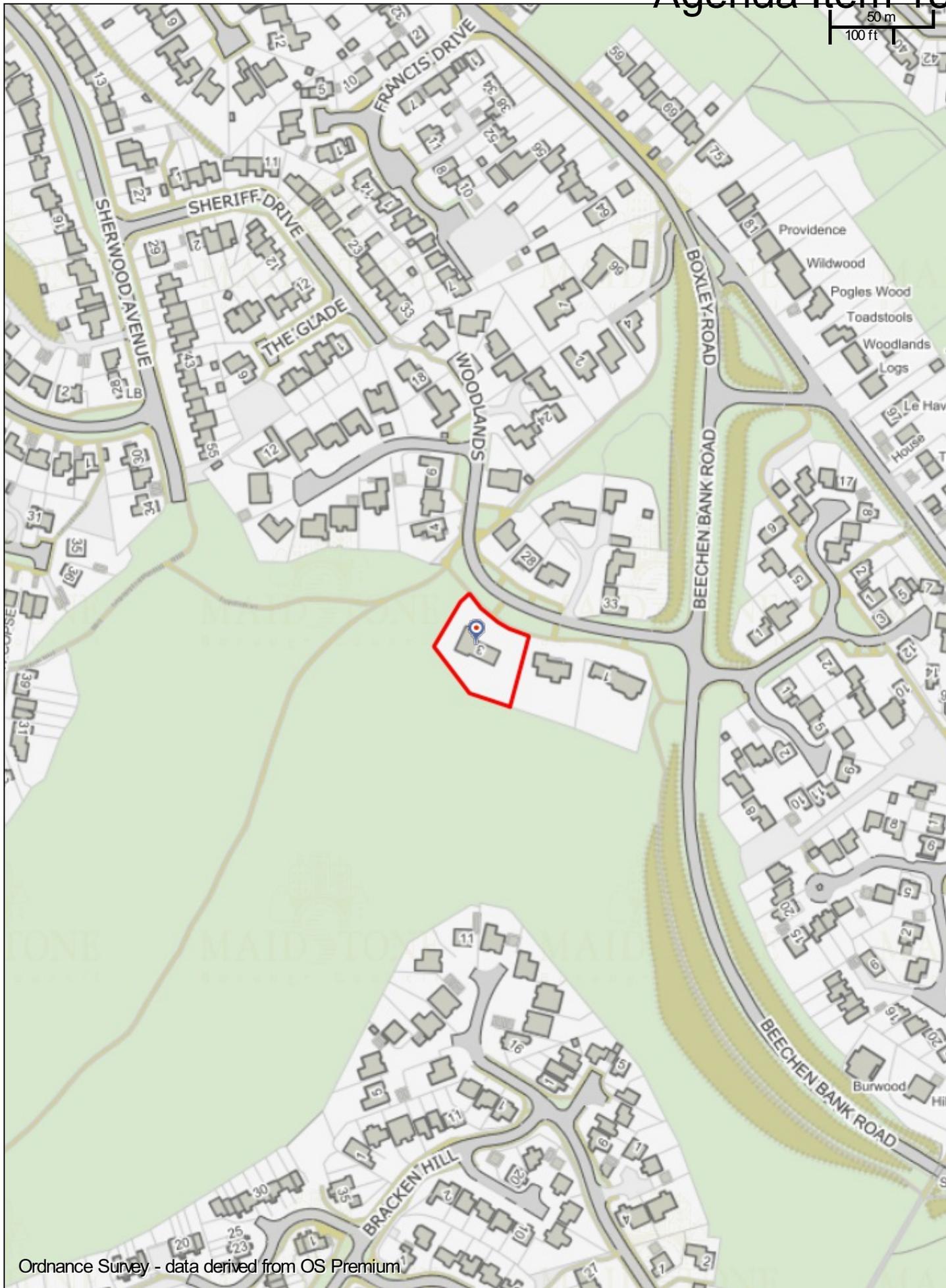
#### **REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT**

#### **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.

<b>APPLICATION</b>	<b>DATE DEFERRED</b>
<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"> <li>• Seek further arboricultural information on tree removal and the impact of the proposed development on retained trees (if any); and</li> <li>• 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.</li> </ul>	<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>

<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;</p> <p>Seek up to date ecological information (including a bat survey) and an assessment of biodiversity net gain; and</p> <p>Seek more information about the light spectrum proposed as the red end of the spectrum is less intrusive.</p>	
<p><u>23/503671/FULL – DEMOLITION OF EXISTING HOUSE AND OUTBUILDING. ERECTION OF 2 NO. DWELLINGS INCLUDING EXTENSION OF EXISTING CROSSOVER AND ASSOCIATED PARKING - MONTROSE, SUTTON ROAD, LANGLEY, MAIDSTONE, KENT</u></p> <p>Deferred to:</p> <p>Negotiate with the applicant regarding the architectural quality of the development and to retain the landscape character;</p> <p>Seek a condition that retains cordwood from tree felling;</p> <p>Amend condition 5 (biodiversity) to seek a biodiversity net gain of 20%; and</p> <p>Amend condition 6 (ecology) to remove the word 'not' from the first sentence, to read "The development hereby approved shall only proceed (including site clearance), in accordance with the advice in the Preliminary Ecological Appraisal (Arbtech, May 2023)."</p>	<p>14 December 2023</p>



Ordnance Survey - data derived from OS Premium

23/502677/FULL 3 Woodlands, Boxley, Kent, ME5 9JX

Scale: 1:2500

Printed on: 8/1/2024 at 12:24 PM by JoannaW



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**REPORT SUMMARY**

<b>REFERENCE NUMBER:</b> 23/502677/FULL		
<b>APPLICATION PROPOSAL:</b> Hard and soft landscaping works including alterations to site levels and installation of retaining walls (part retrospective).		
<b>ADDRESS:</b> 3 Woodlands Boxley Kent ME5 9JX		
<b>RECOMMENDATION:</b> Approval		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> Although partly retrospective, the proposals as set out within the application documents comply with the requirements of the relevant Local Plan policies and have also been the subject of pre-application advice, which included guidance on the planning and landscape issues.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The recommendation of approval is contrary to the views of Boxley Parish Council and the application has been referred to the Planning Committee at their request.		
<b>WARD:</b> Boxley	<b>PARISH/TOWN COUNCIL:</b> Boxley	<b>APPLICANT:</b> Mr Lewis Moyce <b>AGENT:</b> Northlight Architects Ltd
<b>CASE OFFICER:</b> Georgina Quinn	<b>VALIDATION DATE:</b> 11/07/23	<b>DECISION DUE DATE:</b> 02/02/24
<b>ADVERTISED AS A DEPARTURE:</b> No		

**Relevant Planning History**

**22/501455/FULL** - Erection of front wall with metal sliding gate - Refused 05.08.2022 for the following reasons:

- (1) The proposed boundary wall, by virtue of its overall height, design, location, appearance, materials and incorporation of lighting, would result in a dominant, obtrusive and incongruous feature in a street which is predominantly open plan and would detract from the semi-rural, woodland feel, to the detriment of the intrinsic character of the streetscene of Woodlands and the general views towards the adjacent Ancient Woodland, contrary to the National Planning Policy Framework (2021); Policies DM1; DM8 and DM9 of the Maidstone Borough Local Plan; and the Supplementary Planning Document Residential Extensions (2009).
- (2) The application is not supported by sufficient information to determine the full impact of the proposed wall on the adjacent trees and their root protection areas, and would potentially cause harm to their longterm health and vitality, as such, the proposal is contrary to the requirements of Policy DM1 of the Maidstone Borough Local Plan (2017) and the Supplementary Planning Document Residential Extensions (2009).
- (3) The application is not supported by sufficient information to demonstrate the impact of the wall and associated lighting on the wildlife habitats in this woodland area and it would also appear that there is conflict between the location of the wall and the concurrent submission of details application relating to biodiversity enhancements (reference 22/502250/SUB) that is also being considered at this time. As such, the application does not meet the requirements of Policy DM1 or DM8 of the adopted Maidstone Borough Local Plan (2017) .
- (4) The application plans fail to demonstrate that there are adequate visibility splays for drivers exiting the site and given the height and proximity of the proposed wall and gate to the adjacent footpath, it is considered that the development presents concerns in terms of highway safety, contrary to the requirements of Policy DM1 of the adopted Maidstone Borough Local Plan (2017).

**22/502250/SUB** - Submission of details pursuant to condition 4 (Details of Landscape Scheme) and condition 6 (Householder Biodiversity Condition) in relation to planning permission 21/504741/FULL - Refused 08.08.2022 for the following reasons:

- (1) The proposed landscape scheme, as required by Condition 4 of planning permission 21/504741/FULL is not considered to appropriately address the landscaping of the front of the site due to the use of only one variety of hedge (*Taxus baccata*) and does not embrace the semi-rural, woodland character of the street in general or the requirements of the Maidstone Landscape Character Assessment (2012) which advocates the use of mixed hedgerows. There are also discrepancies between the plan provided for this landscape scheme and concurrent application 22/501455/FULL for a boundary wall and gate and consequently, the overall intentions for the landscaping of the site are unclear.

**21/506875/FULL** - Increase the height of the roof together with the erection of 6 no. dormer windows to provide additional accommodation within the roof space. Alterations to fenestration including replacement of existing windows and garage door – Refused 16.03.2022 for the following reason:

- (1) The proposal, by virtue of the development of an additional dormer to those already approved in planning permission 21/504741/FULL, would result in an expansive addition to the eastern roof slope of the higher part of the dwelling which in combination with the dormers on the adjacent roof slopes would result in a convoluted roof form and an overprovision of such extensions, dominating the property to the detriment of its appearance and as a consequence would appear obtrusive and incongruous in its setting thereby detracting from the general character of Woodlands, and would not therefore accord with the requirements of Policies DM1 and DM9 of the Maidstone Borough Local Plan (2017) and the Supplementary Planning Document Residential Extensions (2009).

**21/504741/FULL** - Increase the height of the roof together with the erection of 4 no. dormer windows to provide additional accommodation within the roof space. Alterations to fenestration including replacement of existing windows and garage door - Approved 03.12.2021

**84/0855** - Detached house with integral garage - Approved 27.09.1984

**83/0931** - Detached dwelling, as validated and amended by Drawing Numbers KW1/209 and 210 received on the 31/10/83 - Approved 16.11.1983

#### **Enforcement History:**

**22/500545/OPDEV** - Enforcement Enquiry – Pending Consideration

**21/500589/OPDEV** - Enforcement Enquiry - Closed 27.07.2021

**21/500832/TREEP2** - Enforcement Enquiry - Closed 07.10.2021

#### **Appeal History:**

No previous planning appeals.

## **MAIN REPORT**

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

- 1.01 The application site comprises a detached part single/part 2-storey dwelling located to the southern side of Woodlands. The property dates from the 1980s. The land levels are variable along Woodlands and as a result of this, the dwelling occupies an elevated position in relation to the highway, with the levels continuing to rise beyond the rear of the house.
- 1.02 The property is set within a relatively large plot and is surrounded by dense woodland to the southern and south-western boundaries. This is designated Ancient Woodland and is also identified as a Local Wildlife Site. For the purposes of the Council's Landscape Character Assessment, Woodlands is located within the Bredhurst and Stockbury Downs Character Area.
- 1.03 Works to level extensive parts of the gardens that surround the property have taken place together with the construction of retaining walls to divide the garden into terraces. The extent of soil removal is such that the chalk base of the land is now visible across the majority of the garden. At the time of the site visit, works to the exterior of the property to implement the extensions/alterations to the roof, approved by planning permission 21/504741/FULL, had not yet commenced.
- 1.04 The nearest neighbouring property is no.2 Woodlands (the street numbering is consecutive) with the respective dwellings being approximately 17m apart. Public Footpath KH655 lies approximately 18m from the north-western boundary of the site, leading through Tunbury Woods. Woodlands itself is characterised by detached dwellings that are of varying designs. The presence of trees and landscaping is a notable characteristic, providing a verdant aspect to the street. The majority of the garden of no.3 Woodlands is covered by a Tree Preservation Order (TPO No.1 of 1969).

### **2. PROPOSAL**

- 2.01 This application is partially retrospective in that it seeks to address the works relating to the regrading of the garden land and construction of retaining walls that have been carried out without the benefit of planning permission. Intertwined with this is the requirement to provide a landscape scheme and scheme of biodiversity enhancements, which are necessary as part of the approval of extensions to the dwelling under reference 21/504741/FULL (conditions 4 and 6). The applicant had previously sought to define the boundary with the highway with a wall and sliding metal gates, which were refused under reference 22/501455/FULL. This proposal is therefore in part, a revised approach to the treatment of the boundary with the highway.
- 2.02 There is also a need to address the issue of 2 no. trees ( 1 x Silver Birch and 1 x Ash) subject to TPO No.1 of 1969, that were felled without consent in 2021. The enforcement investigation that was carried out at the time resulted in the owner of the site submitting a report by Oaklands Tree Care which described the felled trees as being positioned on a bank and leaning towards the property. Both trees were noted to be in decline with several dead limbs and possible root rot. As such, the case was closed on the basis of the evidence provided.
- 2.03 Given the degree of overlapping between all of the above issues, this application has been submitted to comprehensively address all of these matters.
- 2.04 In terms of the regrading works, the land surrounding the dwelling has been reduced and levelled. The highest parts of the garden, i.e. the areas directly along the boundaries to the east, south and west, have not been altered. A series of

retaining walls have also been constructed within the garden to establish a patio and terraces.

- 2.05 The terraces themselves are formed by block work walls that will be screened by planting with the remaining areas finished in natural timber cladding. These areas are set out on the site plan below (Figure 1):

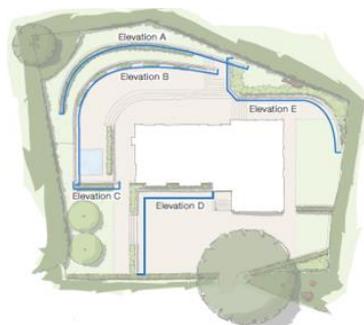


Figure 1

- 2.06 Elevation B, (Figure 2) will be approximately 3m in height and topped with a glazed balustrade with stainless steel top rail of approximately 1.05m in height. The planting adjacent to the wall will include sections of climbing plants, specified as *Lonicera japonica* 'Halliana'; *Lonicera periclymenum* 'Belgica'; and *Hydrangea anomala* 'Petiolaris'. These will be 50 to 80cm in height. It is also proposed to plant areas of *Lavandula angustifolia* 'Hidcote'. This wall will incorporate a return towards the front of the site, identified as Elevation C (Figure 3), and this will be screened by the planting of shrubs that are noted to grow to at least 2m in height and will be comprised of:

- 4 No. *Acer campestre*
- 12 No. *Crataegus monogyna*
- 4 No. *Corylus avellana*
- 12 No. *Ilex aquifolium*
- 8 No. *Fagus sylvatica*



Figure 2

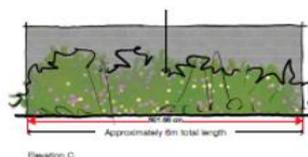
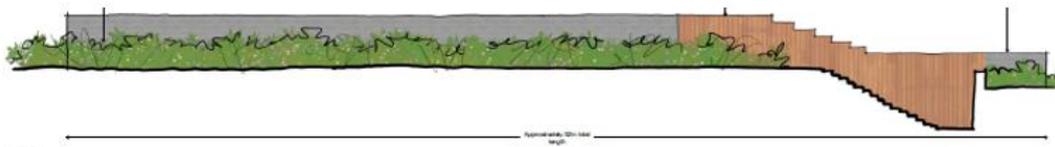


Figure 3

- 2.07 The land directly in advance of the upper terrace wall at Elevation A (Figure 4) will be planted with the following:

- 4 No. *Bergenia* 'Bressingham White'
- 8 No. *Berberis thunbergii* 'Autropurpurea Nana'
- 17 No. *Cornus sanguinea* 'midwinter fire'

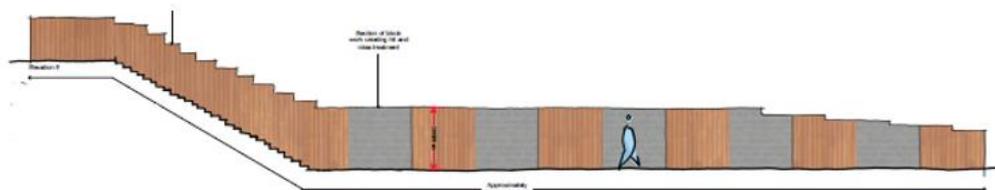
- 4 No Echinacea purpurea 'White Swan'
- 8 No Hebe 'Beverly Hills'
- 17 No Lavandula angustifolia 'Hidcote'
- 8 No Nandina domestica 'Fire Power'
- 12 No Rosmarinus officinalis
- 4 No Rudbeckia fulgida 'goldsturm'



**Figure 4**

2.08 The area defined as Elevation E (Figure 5) will be comprised of a wall of approximately 2m in height, again finished in a mix of timber cladding and block work with the area behind planted with the following:

- 17 No. Cornus alba 'Sibirica'
- 34 No. Dryopteris filix-mas
- 34 No. Viburnum opulus
- 34 No. Pulmonaria longifolia
- 51 No. Ruscus aculeatus



**Figure 5**

2.09 Along the front of the dwelling, and up to the boundary with the highway, will be a lower level wall and steps that will also incorporate a planting area (Elevation D) comprised of the following plants:

- Bergenia 'Bressingham White'
- Berberis thunbergii 'Autropurpurea Nana'
- Cornus sanguinea 'midwinter fire'
- Echinacea purpurea 'White Swan'
- Hebe 'Beverly Hills'
- Lavandula angustifolia 'Hidcote'
- Nandina domestica 'Fire Power'
- Rosmarinus officinalis
- Rudbeckia fulgida 'goldsturm'

2.10 In respect of the landscaping of the wider site, this is detailed as providing hedging across the front boundary with Woodlands. This will be planted at a size of 60cm to 80cm, providing a density of 7 per m<sup>2</sup> in double staggered rows. The planting will be comprised of the following, with the percentage of mix in brackets:

- *Acer campestre* (10%);
- *Crataegus monogyna* (30%);

- *Corylus avellana* (10%);
- *Ilex aquifolium* (30%); and
- *Fagus sylvatica* (20%)

- 2.11 To the north-eastern corner of the site, close to the boundary with the street and adjacent to the boundary with 2 Woodlands, it is proposed to plant 2 x *Betula Pendula* (Silver Birch) trees. These are specified as being of 8 to 10cm in girth and 3m in height. These are to replace the trees that were felled in 2021 (as detailed in paragraph 2.02 above).
- 2.12 The land directly to the front, sides and rear of the dwelling is to be hard landscaped with a resin bonded gravel in a light grey colour. This will provide a driveway/parking area to the front; pathways along the sides of the property; and a patio to the rear, incorporating steps to the first tier of the terraced area. The areas immediately adjacent to the boundaries that surround the site will be comprised of lawn and this will continue through the middle and top tier of the terraced area.
- 2.13 In terms of the proposed enhancements to biodiversity, these are comprised of the following features:
- A log pile, with individual logs of at least 1m in length, to the south-western corner of the site, and one to the north-west;
  - A hedgehog dome to the south-eastern corner of the garden and one to the north-west;
  - A bee post, facing towards the south, placed to the north-western corner of the site;
  - A bat box and a bird box, fixed to a tree in the south-eastern corner of the garden.
  - Three bee bricks and habitat chamber box to the western elevation of the dwellinghouse.

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

#### Maidstone Borough Local Plan 2017

DM1 Principles of Good Design

DM3 Natural Environment

DM8 External Lighting

DM9 Residential Extensions, Conversions and Redevelopment within the Built Up Area

DM23 Parking Standards

Emerging Draft Policy: Maidstone Draft Local Plan: The Regulation 22 Local Plan Review 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. However, this weight is limited as although Stage 1 and 2 Hearings have recently concluded, the Plan is still in Examination. The following policies within the Regulation 22 Local Plan Review are relevant to this application: Policy LPRSP15 – Principles of Good Design; Policy LPRHOU 2 - Residential extensions, conversions, annexes and redevelopment in the built-up area; Policy LPRTRA4 – Assessing the Transport Impacts of Development.

Supplementary Planning Documents: Residential Extensions (2009); Maidstone Landscape Character Assessment 2012 (Updated 2013)

The National Planning Policy Framework 2023 (NPPF);

National Planning Practice Guidance (NPPG);

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

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

4.01 Neighbouring residents at 2, 4, 27, 28 and 29 Woodlands were consulted on this application. A site notice was also posted in the street. Four representations have been received, three of which are in objection and one which neither supports or objects to the proposal, stating the following (summarised) issues:

- On the surface, this application appears to be a vast improvement on the previous ones but there are still some ambiguities that are of concern;
- The existing drawing appears to show fence posts or wall supports and a solid fence/wall, neither of these features are in place, or have ever been, and should not be installed under the guise of retaining an existing feature;
- The landscape plan shows a hedgerow planted at the very edge of the property's front boundary and an area of existing planting beyond that but this is the public footpath and not a planted area;
- The reference to the hedgerows aiding privacy and adding soft security are in contradiction to the ethos of an open plan street landscape and management of their future height is not detailed. The holly and hawthorne could block access along the footpath when in full growth and cause scratching to pedestrians;
- The landscape maintenance schedule details pruning will take place in January and November. They should be pruned in July/August to keep their hedgerow form, November will be too late in the year to prevent the footpath from becoming overgrown and impassable;
- The native hedgerow will be encouraged to grow to its maximum size to provide a security barrier rather than a natural addition to the street landscape. It appears that the hedgerow will be the new 'wall' and will be just as oppressive and out of character;
- Instead of a wall, which was rejected on planning application 22/501455, is now for a hedge of ridiculous length, 34 meters, no height mentioned. The boundary lines also appear to be different in shape as well as to the last application;
- The application implies the footpath is owned by no.3;
- The cul-de-sac is very dark as it is, without further need of having 34m of hedge;
- The residents have been more than amenable to the other plans which change the whole look of the house;
- The visibility and safety of pedestrians will be lost if the hedge goes along the boundary;
- There is no need for a fortress here, it is perfectly safe. The garden at no. 3 can be completely accessible and useable for a young a growing family without the need for a long hedge on the boundary line;
- It mentions in the plans there is parking for 3 cars, yes there was but that was prior to the excavation, when there was a drive to the right side and a turfed lawn to the left side with trees and bushes. There is no mention of a front garden in the new plans, meaning there will be space for many more than 3 cars as the whole width of the front is over 34 meters of concrete now;

- The garden has mature trees and hedges already around the sides and back of the garden for privacy and safety of the residents. It's hard to comprehend why walls would also be needed in front of the said trees and hedges which have enclosed the back garden and have been more than adequate for the previous three families who have lived there over 40 years;
- The hedge would be considered too bulky, incongruous and too prominent for a cul-de-sac. It has already caused many residents to be upset that the streetscene could be altered forever;
- There is a covenant that states no walls or hedges in the front of properties which were written into the deeds, residents value that and have adhered to;
- It now appears that there is going to be a wall at the back of the garden which will be topped with a glass balustrade which doesn't make any logical sense in woodlands where huge branches and boughs constantly fall from trees, the glass will be a danger to wildlife regardless of if it is safety glass;
- This application is something you may consider in a more rural setting in the countryside, not in a residential cul-de-sac; All residents feel very safe here and feel there is absolutely no need to have enclosed front gardens thus changing the street scene forever;
- The boundary line in question appears to show fence posts for reasons unknown. There has never been a fence or wall on the boundary line at no. 3;
- The one bee box, one bird box, one bat box and one hedgehog dome does seem to be a tick box exercise for a plot of such a size, they are out of sight stuck in corners. How will hedgehogs manage the different levels in the back garden to reach the top left corner?;
- The blue hoarding has been an eye sore for over two years for the residents and should be removed now that the grounds work has been completed;
- Kent County Council were instrumental to the original landscape planning and specified nothing was to project beyond the building lines;
- The contours shown on the drawing were only ever on the ground when the house was purchased and within weeks the whole "garden" was removed so this plan of proposed scheme is shown incorrectly despite the over printing onto the plan view of the building highlighting it to be Approved Application;
- There was never a hedge around the entire property. The front was open plan all the way across abutting onto the footpath;
- Using the pre-existing levels no longer reflects the site as it is today. It has been extensively carved out and flattened. There have been considerable concrete pumping weeks where lorry after lorry would come in tandem mixing and pumping concrete into the deeply excavated ground around the entire site;
- No protection around the Ash tree by the drive access point which should have been protected;
- One issue that should be considered is the surface water drainage from this sloped dwelling where there have now been significant alterations to the elevation of the entire site;
- Flooding of the footpath has occurred.

#### **Boxley Parish Council**

4.02 Boxley Parish Council strongly object to this application. The applicant has desecrated the site, made planning applications that have been refused and is subject to an investigation by MBC's Enforcement Team for unauthorised work. To grant planning permission before this investigation is completed would be wrong. To grant retrospective planning permission for unauthorised work would be wrong. If the Case Officer is minded to approval then Boxley Parish Council would like the application determined by the Planning Committee. (Officer comment: this retrospective application is a result of the Enforcement investigations and an application was invited in accordance with the appropriate government guidance

and legislation to regularise the situation, further comments on retrospective applications are made below).

## **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. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Attention is referred to the generic advice on other environmental issues.

### Forestry Commission

5.02 No specific comments provided but attention is drawn to the relevant policy framework and related guidance.

### Kent Wildlife Trust

5.03 No comments submitted.

## **6. APPRAISAL**

6.01 The key issues are:

- The general principle of the application;
- The design and visual impact of the proposal in the context of the site and its setting and whether the previously identified issues have been appropriately addressed;
- The proposed biodiversity enhancements and wildlife impacts;
- Highway safety.

### **Principle**

6.02 Significant concerns have been raised by Boxley Parish Council in terms of the principle of accepting this application due to the fact that the development has been partially completed and is the subject of an enforcement investigation. Whilst it is regrettable that the applicant did not seek planning consent prior to commencing work, there are no planning regulations that prohibit the submission of a retrospective application for planning permission.

6.03 The Department for Levelling Up, Housing and Communities advise that in respect of matters of planning enforcement, where a Local Planning Authority considers that a retrospective planning application would be the most appropriate way forward to regularise a situation, a site owner should be invited to submit an application. This in itself does not indicate that an application will be approved and nor does it influence how the application is assessed, i.e. it will be considered in the normal way.

6.04 The current enforcement case will remain open pending the outcome of this planning application. Whilst Boxley Parish Council indicate their concern as to this application being submitted whilst the enforcement case remains open, the next step in terms of enforcement, is in fact dependent upon the outcome of this

submission. By virtue of these factors, the retrospective nature of the application would not present a material reason for refusal.

- 6.05 In terms of the general principle of the proposal itself, this is a suburban, residential area, as defined by the adopted Local Plan. There are no specific planning policies or guidelines that discourage landscaping of residential gardens in such areas. It is often the case that such works, e.g. planting schemes, would not require any form of consent. This is a sloping site and the general principle of regrading the land to make the space more usable is not necessarily unreasonable, it is the potential impact on the character and visual qualities of the streetscene/general locality that need to be evaluated and will be considered below. Whilst several of the concerns raised are related to the general principle of changing the appearance/landscaping of this site, this in itself would not present a material reason to refuse planning permission, it is whether these changes result in any harm to the character and appearance of Woodlands to the degree that a refusal could be substantiated.

### **Visual Impact and Character**

- 6.06 The application site is located within the urban boundary of Walderslade. The street is well landscaped, with part of its intrinsic character being defined by the density of mature trees and shrubs along the street against the backdrop of the woods on the rising ground to the south/south-west. Woodlands itself is developed for residential purposes, with predominantly open boundaries to the front of the dwellings, although this is not the case for every property in the street, with a few incorporating modest brick walls and close boarded fencing is also visible in the street due to some properties having a side boundary adjacent to the highway. The dwelling on the application site itself has been undergoing building works for some time now and has been surrounded by a hoarding, for at least 2 years.
- 6.07 Policy DM1 of the Maidstone Borough Local Plan (2017) sets out the principles of good design. Proposals should respond positively to the local and natural character of the area; respect the topography and respond to the location of the site, incorporating natural features such as trees and hedges. On-site biodiversity features should be protected or sufficient mitigation measures provided. Policy DM9 states that in terms of residential extensions and redevelopment within the built up area, proposals will be permitted where the traditional boundary treatment of an area would be retained, and where feasible, reinforced. Furthermore, the guidance contained in the SPD Residential Extensions (2009) notes the importance of boundaries to properties and how they have a significant impact on the character of an area and its visual amenity. These are the fundamental principles that must therefore be applied to the assessment of this submission.
- 6.08 3 Woodlands is positioned on a site that has varying land levels. As noted in the site description and local consultation responses, the site has been excavated to the extent that it has been taken down to the chalk base resulting in a somewhat stark appearance. In terms of the original appearance of the garden, the only available images are those that are recorded on the sales particulars from 2021, which are publicly visible online (Figure 6):



**Figure 6**

- 6.09 It would appear from these photos, together with the plans submitted in 2021 with the applications for extensions to the roof area of the dwelling, that the original land levels were always highest towards the south/south-west, with landscaping being present along the boundaries. Site photos from October 2021 documenting the initial changes by the applicant are detailed in Figure 7 below:



**Figure 7**

- 6.10 Due to the fact that works had been carried out in the garden area, a condition was included on planning permission 21/504741/FULL to require the submission and implementation of a landscape scheme so as to ensure a satisfactory appearance to the redevelopment of the property.
- 6.11 Following concerns as to the level of works that continued in the grounds of the property, a visit to the site in 2022 revealed that further changes had taken place, including the construction of retaining walls, as detailed in Figure 8 below:



**Figure 8**

- 6.12 The applicant was advised that planning permission should have been sought for these works and that a submission for pre-application advice should be made without delay. Accordingly, a site meeting took place that included MBC's Landscape Officer. The key issues that were relayed included the need to observe the verdant character of Woodlands and the fact that the retaining walls need to be softened in appearance. Discussions also included the front boundary treatments, in particular the high level wall that was refused in application 22/501455/FULL and how a more natural boundary definition should be considered.

- 6.13 The current submission is therefore a result of pre-application discussions and incorporates hedging to define the boundary of the property with the highway. This would represent a suitably balanced approach to meeting the applicant's desire to define the boundary of their property with the highway whilst maintaining the soft landscaped feel of the street. Ultimately, it would be possible for such hedging to be planted without a requirement for planning permission. Whilst several of the neighbour comments refer to the presence of covenants on the land, this would not influence the planning process. It is the applicant's duty to ensure that they observe any other applicable legislation or requirements as the grant of planning permission would not override such responsibilities. For absolute clarity on this issue, it is recommended that an informative is included on the decision notice to advise of this situation.
- 6.14 In liaising with MBC's Landscape Officer, it is noted that the planting scheme is considered generally appropriate to this location. Initially it was considered that one of the planting choices near to the boundary with the woodland could present maintenance challenges due to its fast growing nature and this has since been changed for a more suitable alternative. The replacement trees for those felled in 2021 are also determined to be acceptable.
- 6.15 Due to the rising nature of the land, the retaining walls will partially be visible from some vantage points in the street. The curved nature of parts of the walls and plans to include natural timber cladding together with suitable planting will however ensure that the visible elements will not appear overbearing or incongruous. The section of glazed balustrade will suitably integrate with the proposals. The landscape scheme is also accompanied by a management plan to ensure that the proposals are appropriately managed and a condition is recommended to ensure that this is maintained for a period of ten years.
- 6.16 The land to the rear of the site is at a higher level and features dense woodlands which form the backdrop of the application site and will remain the dominant feature. The regrading works and terraces do not encroach upon the Ancient Woodland and are confined to the established garden area. There is a statutory requirement to protect the quality and character of Ancient Woodland. No concerns have been raised by Natural England; The Forestry Commission; or MBC's Landscape Officer on this issue.
- 6.17 Whilst it is acknowledged that the level of hard landscaping will be more extensive than originally present at the property, it would not be to an extent that it would overwhelm or detract from the existing or proposed soft landscaping features. Furthermore, since originally submitted, the proposals have been altered to include an additional area of lawn extending from the front of the site along the south-western boundary.
- 6.18 On balance, the scheme as presented is considered to suitably integrate the terraces with the site and its general surrounding by the landscape scheme as presented in the application documents. Overall, this proposal is considered to acceptably integrate with the general streetscene of Woodlands and therefore accords with the relevant policies and guidelines. Suitably worded conditions are however recommended to ensure that the approved landscape scheme is implemented together with incorporating a suitable topsoil (in accordance with *BS3882:2015 - Topsoil*) to ensure all planting successfully establishes and matures. A requirement to adhere to the submitted management plan, including a requirement to replace any planting that dies, within a 10 timeframe is also recommended.

#### **Biodiversity Enhancements and Impact on Wildlife**

- 6.19 The application submission includes the provision of a range of features across the site and within the fabric of the existing building. It must also be considered that the

extent of new planting throughout the garden area will also create further wildlife habitats. The objections received suggest that the proposals do not go far enough however, there are a variety of features proposed and this together with the proposed landscaping are considered proportionate to the overall level of development on the site. Furthermore, the proposed features in the flank elevation of the dwelling can be incorporated and conditioned to be undertaken, even if the development approved by planning permission 21/504741/FULL is not implemented. It is therefore determined that the submitted details suitably address the policy requirements in respect of this issue.

- 6.20 It must also be considered that the success of the habitats will be dependent upon the permanence of the features proposed. A condition should therefore be included on the decision notice to ensure that the measures should be installed as detailed and maintained on a permanent basis.
- 6.21 The submission does not detail the installation of any exterior lighting, however, any future provisions in this regard could result in harm to the established benefits to wildlife habitats or potentially to the existing wildlife in the adjacent woodland/Local Wildlife Site. It is therefore considered appropriate to include a condition on the decision notice that prevents the installation of any external lighting unless details have first been submitted to, and approved in writing, by the Local Planning Authority.

#### **Highway and Pedestrian Safety**

- 6.22 The proposals do not include the provision of any new vehicular access onto the highway. The position of 3 Woodlands is such that the established access requires that vehicles cross the footpath, as is the case in most urban environments, and no alterations are proposed in this regard. The submitted objections raise concerns as to the future height of the front boundary hedge and the potential for obstructions to the visibility of drivers exiting the site. Given the natural boundary treatment and potential for growth to a level that could affect visibility, it is considered reasonable and necessary to include a condition to require the retention of suitable visibility splays, as is the standard requirement for driveways.
- 6.23 The objections also express concerns as to the safety of pedestrians due to the spikey nature of some of the planting along the front boundary, particularly if the planting is allowed to grow over the footpath. The applicant will have a duty to ensure that any planting within their control does not encroach onto the public footpath. If this were to become an issue, the Highways Authority (Kent County Council) has the power to require that any overhanging planting is cut back so that the full width of the footpath is usable. The scope of planning controls are such that it would not be reasonable to refuse an application on the basis that the planting is of a spikey nature.

#### **Other Matters**

- 6.24 It is stated in the objections received that the proposals suggest that the public footpath is incorporated in the plans. The red line plan submitted with the application would not appear to detail this. Certificate A is signed on the application form to indicate that the entirety of the land involved in the application is in the ownership of the applicant. Planning permission would not override rights of ownership and it is ultimately the applicant's responsibility to ensure that they observe this requirement.
- 6.25 The objections have raised issues relating to drainage and potential flooding around the site. A condition is recommended that requires all hard surfacing materials are to be of a permeable type and this together with the natural landscaping features will ensure that surface water is appropriately managed.

- 6.26 The policies and guidelines concerning domestic developments require a consideration of the privacy, outlook, and maintenance of an acceptable standard of amenity of neighbouring householders. The works to the land levels and construction of the raised terraces will not introduce any materially greater level of visibility to neighbouring properties or their private garden areas. The landscaping of the site is determined to achieve an acceptable visual appearance (as assessed above) such that the development as a whole will not detract from the general outlook of neighbouring occupiers.
- 6.27 The comments received through the consultation process have referred to the presence of the hoarding around the site. This has been the subject of an enforcement case which determined that no further action is necessary due to its requirement for the duration of construction works only. Furthermore, the requirement to implement to the landscape scheme will see that it will be removed in due course.

#### **PUBLIC SECTOR EQUALITY DUTY**

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

#### **7. CONCLUSION**

- 7.01 The development works that have been carried out at 3 Woodlands in respect of the regrading of the garden land and construction of retaining walls should have had the benefit of planning permission. Furthermore, the loss of 2 protected trees within the garden area needs to be suitably addressed.
- 7.02 At present, the retaining walls as constructed, have a somewhat stark appearance, to the extent that they appear imposing and incongruous. This is however because the development works have ceased in order that planning permission can be sought. The landscape scheme put forward has been informed by pre-application discussions and is considered to establish a suitable appearance that will satisfactorily integrate with the general character of Woodlands as well as the backdrop of the Ancient Woodlands to the south. The inclusion of a natural boundary treatment to the front of the property is determined to be an acceptable balance of achieving the applicant's to desire to define their property whilst maintaining the landscaped character of the street. The features included to support biodiversity are considered commensurate to the extent of development proposed and furthermore, the extent of planting will also make a positive contribution to achieving this aim. The safety of pedestrians can be ensured by imposing a condition that requires the maintenance of adequate visibility splays.
- 7.03 On balance, whilst this proposal is partly retrospective, the scheme as presented is determined to suitably accord with the relevant Local Plan policies and guidelines. The recommendation is therefore approval, subject to the conditions and informatives outlined in the report above.

#### **EIA Screening**

EIA Development	No
Comments	The development as proposed does not fall within any of the categories.

#### **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 completed within 12 months of the date of this decision notice, in accordance with the following approved plans: Site Location and Block Plan 1141-CYA-A2-XX-DR-A-00001 Rev A; Site Sections 1141-HST-AA-ZZ-DR-A-00110 Rev C; 1141-CYA-AA-ZZ-DR-A-00108 Rev D; Planting Plan JKD034P02 Revision 02; Supplementary Landscape Report JKD034R01 Revision 02; Landscape Plan JKD034P01 Revision 03; Sketch Elevations JKD034P03 Rev 02;

Reason: In view of the retrospective nature of the application and to clarify which plans have been approved.

- 2) The landscape scheme detailed on the plans approved by condition 1 of this permission shall be carried out during the first planting season (October to February) following the date of this decision. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the date of implementation of the approved landscape scheme, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation;

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

- 3) The landscape scheme detailed on the plans approved by condition 1 of this permission shall ensure all planting areas have a sufficient depth of topsoil in accordance with BS3882:2015 Topsoil, to ensure successful establishment and maturity of the planted stock.

Reasons: To ensure successful growth of the plants in the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 4) All external materials shall be as specified on the plans and documents approved by condition 1 of this permission;

Reason: To ensure a satisfactory appearance to the development.

- 5) The biodiversity enhancements detailed on the plans and documents approved by condition 1 of this permission, shall be implemented as detailed, and fully completed within 12 months of the date of this decision, and shall thereafter be permanently maintained as approved;

Reason : In the interests of biodiversity enhancement.

- 6) The planting scheme approved by condition 1 of this permission shall be permanently maintained so that it does not exceed 1m in height for a distance of 2m to either side of the vehicular access to the site;

Reason: In order to maintain adequate driver visibility in the interests of pedestrian and highway safety.

- 7) All hard surfacing materials detailed on the plans approved by condition 1 of this permission shall be of a permeable type;  
Reason : In the interests of sustainable drainage and to prevent run-off onto the highway.
- 8) No lighting shall be installed in the garden, or to the walls, patio areas, terraces, driveway or external walls of the dwellinghouse, without the prior written consent of the Local Planning Authority.  
Reason: In the interests of visual amenities and protection of wildlife;

### **INFORMATIVES**

- 1) Advice will be provided within an informative regarding the requirement to seek building regulations approval (if necessary);
- 2) Detailed advice will be provided within an informative regarding the Environmental Code of Construction Conduct;
- 3) A reminder will be placed within an informative that all adjacent footpaths must be maintained free of obstruction;
- 4) Advice will be provided within an informative relating to the fact that planning permission would not override any obligations relating to the land, such as restrictive covenants.

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 14



Ordnance Survey - data derived from OS Premium

**REPORT SUMMARY**

<b>REFERENCE NUMBER:</b> 23/504516/FULL		
<b>APPLICATION PROPOSAL:</b> Demolition of the existing pavilion and the erection of a replacement single storey club pavilion building.		
<b>ADDRESS:</b> Leeds and Broomfield Cricket Club Burberry Lane Leeds Maidstone ME17 1RH		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to conditions		
<p><b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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”.</p> <p>The proposal will result in harm to the character and appearance of the countryside contrary to policy SP17 and there are no Local Plan policies that directly support the use. In this context as the application is not in accordance with the adopted Local Plan, it needs to be determined as to whether there are other material considerations that justify granting planning permission.</p> <p>The proposal is found to be acceptable in relation to the minimal level of harm that will be caused to the character and appearance of this rural area. The proposal is acceptable in relation to heritage impacts, neighbour amenity, and biodiversity. The access and parking arrangements are all acceptable.</p> <p>Whilst the application is not in accordance with the development plan (a departure) the material considerations outlined show minimal harm and indicate that planning permission should be approved.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Departure from the Local Plan.		
<b>WARD:</b> Leeds	<b>PARISH/TOWN COUNCIL:</b> Leeds	<b>APPLICANT:</b> Mr Paul Hicks <b>AGENT:</b> Cirpro Limited
<b>CASE OFFICER:</b> William Fletcher	<b>VALIDATION DATE:</b> 12/10/23	<b>DECISION DUE DATE:</b> 26/01/24
<b>ADVERTISED AS A DEPARTURE:</b> Yes		

**Relevant planning history**

The extensive planning history is not relevant to this application.

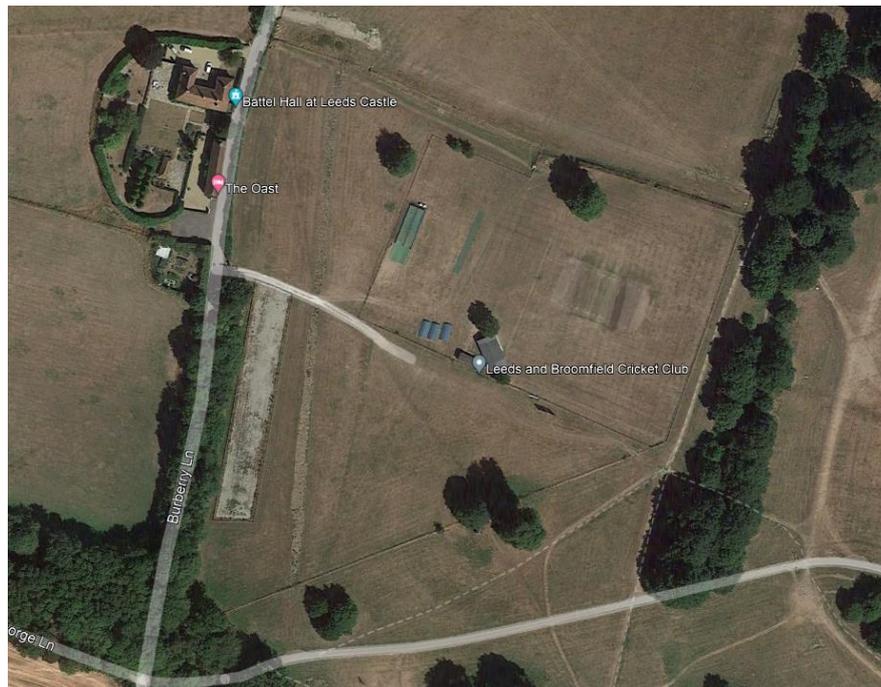
**MAIN REPORT**

**1. DESCRIPTION OF SITE**

- 1.01 In policy terms the application site is located within countryside outside of all settlement boundaries as defined within the Maidstone Borough Local Plan.
- 1.02 The application site is located within the Len Valley Landscape of Local Value and the Leeds Castle Parklands landscape character area. The area is rural in character, characterised by minimal built development.

- 1.03 The red line application site forms part of a cricket pitch with expansive views across the surrounding landscape. The current Cricket Pavilion is a modern lodge.
- 1.04 The red line application site and the associated lodge is in the setting of Battel Hall Cottages (GII), Battel Hall (GII\*) and its associated Oast (GII) that are located to the east on the opposite side of Burberry Lane. The site is also within the grounds of Leeds Castle, a GII\* park and garden associated with the GI listed Leeds Castle, which lies to the east of the cricket club. The site is in a mineral safeguarding area.

### **Aerial of application site**



## **2. PROPOSAL**

- 2.01 The application is described as "Demolition of the existing pavilion and the erection of a replacement single storey club pavilion building."
- 2.02 The existing building has a footprint of approximately 100m<sup>2</sup> and a maximum height of 4.3m with a gabled roof form. The proposed building would have a footprint of approximately 220m<sup>2</sup> with a maximum height of 4.6m also with a gabled roof form. The new building would be clad in 'black finished' timber weatherboarding with a cementitious slate roof.
- 2.03 The building would be used to provide more modern facilities for the club including accessible bathrooms and facilities as well as better equipped changing rooms and women's changing facilities. A groundskeeper's store is also incorporated into the building.

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

Maidstone Borough Local Plan 2017:  
SS1 – Maidstone borough spatial strategy  
SP17 – Countryside  
SP18 – Historic environment  
DM1 - Principles of good design  
DM4 - Development affecting designated and non-designated heritage assets

DM20 - Community facilities  
DM30 - Design Principles in the Countryside

Maidstone Landscape Character Assessment 2012 (Updated 2013):  
Application site is located within the Leeds Castle Parklands landscape character area. The Maidstone Landscape Character Assessment notes this landscape is in 'Moderate' and of 'High' sensitivity with guidelines to 'Conserve and Restore'.

The Regulation 22 Local Plan Review:

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.

LPRSS1: Maidstone borough spatial strategy

LPRSP9: Development in the countryside

LPRSP12: Sustainable transport

LPRSP14: The environment

LPRSP14A: Natural environment

LPRSP14(B): Historic environment

LPRSP14(C): Climate change

LPRSP15: Design

LPRTA2: Assessing the transport impacts of development

PRTRA4: Parking

LPRINF1: Publicly accessible open space and recreation

LPRINF2: Community facilities

LPRQ&D 1 Sustainable design

LPRQ&D 2: External lighting

LPRQ&D 4 Design principles in the countryside

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

##### Local residents

- 4.01 As well as the posted site notice, 3 neighbouring properties were consulted by direct mail. No representations were received.

##### Leeds Parish Council

- 4.02 No representations received.

#### **5. CONSULTATIONS**

##### Historic England

- 5.01 No advice offered.

##### The Gardens Trust

- 5.02 No comments.

##### KCC Minerals and Waste

- 5.03 No comments.

##### KCC PROW

- 5.04 No objection, referred to standing advice.

##### Mid Kent Environmental Health

- 5.05 No objection subject to conditions on:
- Foul drainage

- External lighting

MBC Conservation Officer

5.06 No objection (comments considered in the main report below).

**6. APPRAISAL**

6.01 The key issues are:

- Spatial strategy
- Character and appearance
- Residential amenity
- Highways
- Landscaping

**Spatial Strategy**

6.02 The starting point for assessment of 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 and all proposals in the countryside are likely to result in some harm to local character and appearance. In this context, all development outside the designated settlements does not accord with this part of SP17.

6.04 Other Local Plan policies permit development in the countryside in certain circumstances (equestrian, rural worker dwelling etc) and 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 The current proposal will result in harm to the character and appearance of the countryside and there are no Local Plan policies that directly support the application. The recommendation to grant planning permission is as a result a departure from the adopted Local Plan.

6.06 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". The assessment below considers whether there are material considerations present here that justify approving development contrary to the development plan.

**Character and appearance**

6.07 The application site is located in Len Valley Landscape of Local Value. Policy SP17 states "The distinctive landscape character of the ...the Len Valley... as defined on the policies map, will be conserved and enhanced as [a] landscape...of local value".

6.08 The Landscape Character Assessment document notes that actions the LPA should take are.

- Conserve the traditional parkland character of the landscape
- Conserve the remote qualities of the Len Valley and its setting, and strengthen vegetation along the River Len and adjoining ditches to improve habitat connectivity".

6.09 In relation to SP17 a) and considering the impact of development on the character and appearance of the countryside the relevant adopted local plan polices are DM1 and DM30. Criteria (ii) of Policy DM1 (Principles of Good Design) establishes that

development proposals will be expected to respond positively to, and where possible enhance, the local, natural, or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage- incorporating a high quality, modern design approach and making use of vernacular materials where appropriate.

- 6.10 Policy DM30 (Design principles in the countryside) states that where new built development is proposed, there should be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflects the landscape character of the area.
- 6.11 The proposed pavilion will provide improved facilities for the cricket club and would replace an existing building. Whilst it is accepted that the new building will have a footprint 100m<sup>2</sup> larger and that some harm would be caused by this, the building height would only increase by 30cm. When considering the use of the site as well as how established this use is, on balance, it is not assessed that the development would be so harmful that a refusal would be warranted.
- 6.12 The proposal is to move the pavilion 3m south. This is due to a high pressure gas pipeline that runs through the site. The change of location is acceptable in relation to the minimal impact on the character of the countryside.
- 6.13 The proposed scheme allows the site to be continued to be used as a cricket pitch and will not cause harm to the GII\* park and garden or to the setting of the nearby listed buildings. Battell Hall is the closest listed building which is 140m from the proposed building.
- 6.14 The proposed change of scale is deemed to cause no harm to the significance of the Leeds Castle Park and Garden, in terms of heritage impacts. It is concluded that the level of landscape harm from the proposal is not sufficient to justify refusal of permission. The Council's Conservation Officer has confirmed that in their view the proposal will not cause harm to any heritage assets.

#### **Community sports facilities**

- 6.15 The supporting text to policy DM20 Community facilities advises "*In order to build well-functioning, sustainable communities, it is essential that adequate community facilities are provided*" (para 6.94). The NPPF emphasises the importance of creating healthy, inclusive communities, with appropriate facilities. The Infrastructure Delivery Plan lists the key social infrastructure needed to support the level of development planned for the borough. Community facilities encompass educational...recreational facilities, including schools...and sports venues. Sport England's Planning for Sport Guidance (June 2019) sets out the importance of promoting healthy communities and achieving sustainable development.
- 6.16 The new pavilion at this cricket club will encourage wider community participation in sport including the new female and improved male changing facilities. When considering the visual harm that would result from the larger building it is concluded that the benefits to participation in sport outweigh this identified harm.

#### **Residential amenity**

- 6.17 Local Plan policy DM1 (Principles of good design) criteria (iv) explains that proposals should respect the amenities of occupiers of neighbouring properties by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion. The built form should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

- 6.18 With the separation distance between the application and the closest residential properties the likelihood of any detrimental impact on amenity is low. As such, the proposals is found to accord with Policy DM1 of the Maidstone Local Plan (2017).

### **Highways**

- 6.19 The application site is served by existing parking and access arrangements which can accommodate extra demand from the additional floorspace. It is not assessed that the proposal would result in any additional on street parking issues in the area.
- 6.20 Policy DM30 details how proposals must not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological importance or the erosion of roadside verges.
- 6.21 It is not assessed that the development would result in an increase in traffic movements over the existing arrangements. The development would not have a harmful impact upon parking in the area, the access or the wider highway network.

### **Ecology**

- 6.22 A planning condition is recommended requiring biodiversity enhancements around the site and in the fabric of the new building.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.23 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.

## **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 result in harm to the character and appearance of the countryside contrary to policy SP17 and there are no Local Plan policies that directly support the use. In this context as the application is not in accordance with the adopted Local Plan, it needs to be determined as to whether there are other material considerations that justify granting planning permission.
- 7.03 The proposal is acceptable in relation to the minimal level of harm to the character and appearance of this rural area. The proposal is acceptable in relation to heritage impacts, neighbour amenity, and biodiversity. The access and parking arrangements are all acceptable.
- 7.04 It is concluded that whilst the application is not in accordance with the development plan (a departure) with the material considerations that have been outlined and the minimal level of harm, planning permission should be approved.

## **8. RECOMMENDATION**

### **GRANT PLANNING PERMISSION subject to the following conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development shall be carried out in accordance with the following approved plans and documents:  
Application for planning permission  
20007-LP-01 A Location Plan  
20007-EX-01 A Existing Site And Block Plan  
20007-EX-02 Existing Plans And Elevations  
20007-GA-01 A Proposed Site And Block Plan  
20007 GA-02-A Proposed Plans and Elevations  
Design and Access Statement Inc Heritage and Impact Assessment  
Flood Risk Assessment  
Supporting Statement  
Reason: To clarify the approved plans and to ensure the development is carried out to an acceptable visual standard.
- 3) The materials to be used in the development hereby approved shall be as indicated on the approved plans.  
Reason: To ensure a satisfactory appearance to the development
- 4) The development hereby approved shall not be proceed above slab level until details for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The details shall consist of the enhancement of biodiversity through integrated methods into the building structure by means such as swift bricks, bat tube or bricks as well as enhancements on nearby land such as bird boxes and insect habitats.  
Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- 5) The development 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 use of the building and maintained thereafter.  
Reason: To ensure an energy efficient form of development.
- 6) The development hereby approved shall not commence above slab level until details of the proposed method of foul sewage treatment must be submitted to and approved by the LPA prior to occupation of the site.  
Details must include the size of any individual cesspools and/or septic tanks and/or other treatment systems. Information provided must 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.

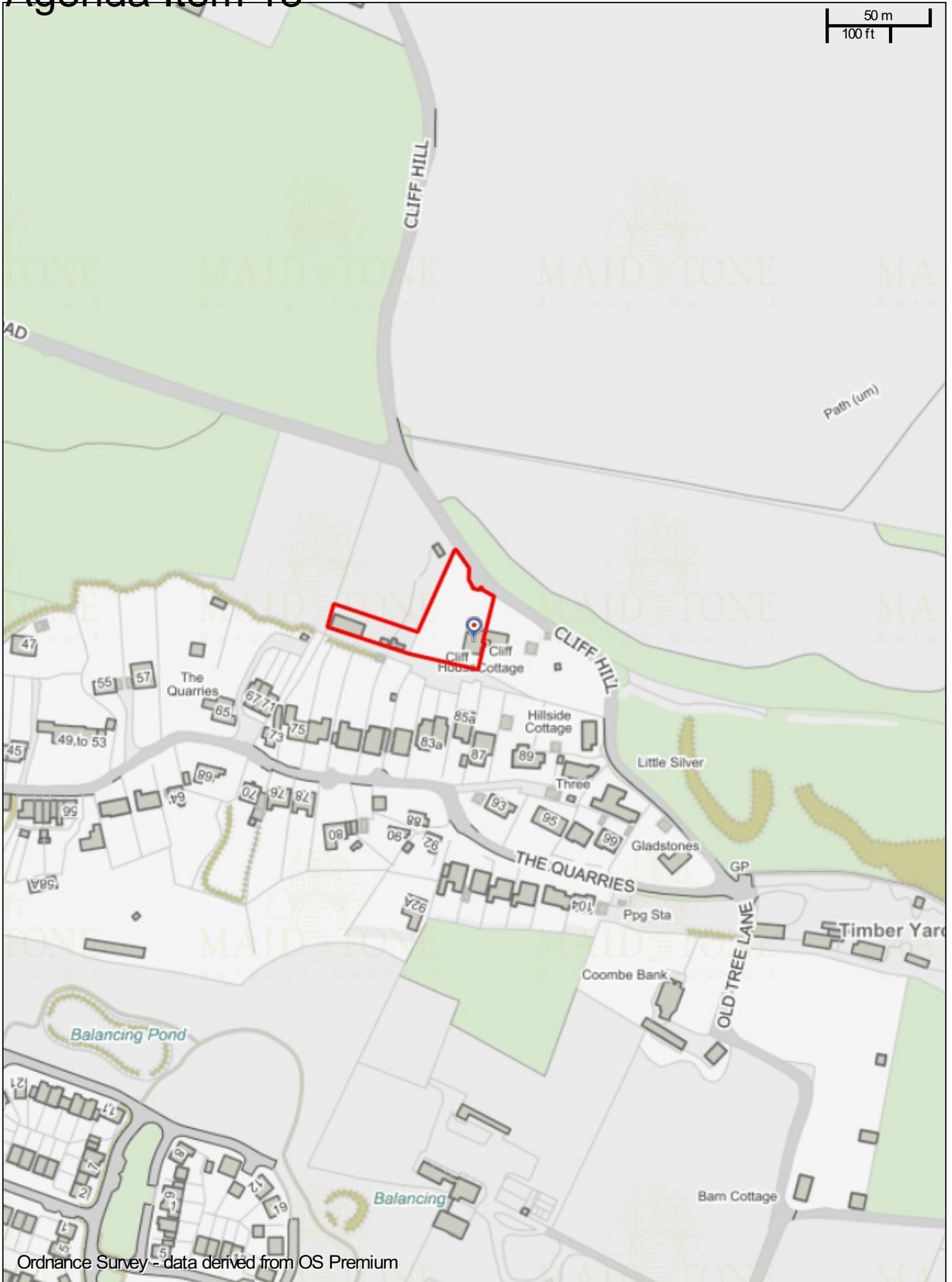
**INFORMATIVE**

Adequate and suitable measures should be carried out for the minimisation of asbestosfibres during demolition, in order to prevent airborne fibres from affecting nearby properties and workers on site.

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 15

50 m  
100 ft



Ordnance Survey - data derived from OS Premium

23/504913/FULL Cliff House, Cliff Hill, Boughton Monchelsea, Maidstone, Kent, ME17 4NQ

Scale: 1:2500

Printed on: 8/1/2024 at 12:40 PM by JoannaW

<b>REFERENCE NUMBER:</b> 23/504913/FULL		
<b>APPLICATION PROPOSAL:</b> Retrospective application for the change of use to garden land and the erection of 1no. outbuilding to house home gym with associated decking, patio and hot tub area (Resubmission of 22/500119/FULL).		
<b>ADDRESS:</b> Cliff House Cliff Hill Boughton Monchelsea Maidstone Kent ME17 4NQ		
<b>RECOMMENDATION:</b> <b>GRANT</b> subject to the planning conditions set out in Section 8.0 of the report		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The reduction in land proposed to change to garden land is considered to overcome the Inspector's concerns such that the harm to the character and appearance of the countryside is greatly diminished with the Inspector finding the outbuilding itself as being acceptable in terms of visual impact, such that the proposal would be in accordance with current policy and guidance.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The application has been called in by Boughton Monchelsea Parish Council by reason of the recommendation being contrary to their comments (see report below for reasons).		
<b>WARD:</b> Boughton Monchelsea And Chart Sutton	<b>PARISH/TOWN COUNCIL:</b> Boughton Monchelsea	<b>APPLICANT:</b> Mr Andrew Coombe <b>AGENT:</b> Design And Plan Consultants Ltd
<b>CASE OFFICER:</b> Stephanie Parker	<b>VALIDATION DATE:</b> 02/11/23	<b>DECISION DUE DATE:</b> 28/12/23
<b>ADVERTISED AS A DEPARTURE:</b> No		

### Relevant Planning History

22/500119/FULL

Retrospective application for the change of use to garden land and the erection of 1no. outbuilding to house home gym with associated decking, patio and hot tub area.  
Refused 26.01.2023 Dismissed at appeal (see Appendix 1 and report below for further details)

12/0437 : Erection of a detached double garage as shown on drawing numbers 1204/01, 1204/02, 1204/03 and 1204/04, supported by a design and access statement, all received 9th March 2012. Approved 02.05.2012

89/0875 : Erection of detached garage with children's games room over as amended by Drawing No.8939/1/B received 24 August 1989 Approved 27.10.1989

89/0876 : Listed Building consent for garage with children's games room over as amended by Drawing Nos.8930/1/B received 24 August 1989 Approved 27.10.1989

### Appeal History:

23/500093/REF

Retrospective application for the change of use to garden land and the erection of 1no. outbuilding to house home gym with associated decking, patio and hot tub area.  
Dismiss or Dismiss -Notice Upheld/Varied 27.09.2023

## **MAIN REPORT**

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

- 1.01 The application site is located to the northeast of Boughton Monchelsea, along Cliff Hill just before the junction with Cliff Hill Road. The application site is located outside the Boughton Monchelsea settlement boundary and is considered to be countryside for the purposes on the Local Plan.
- 1.02 The red line application site boundary includes Cliff House (Grade II listed building), and the original garden of Cliff House which is immediately to the west of the house. The current planning application seeks the retrospective change of use of an area of land immediately to the west of the original garden. The existing house and original garden are within the Boughton Monchelsea The Quarries Conservation Area whilst the land for which retrospective permission is sought is just outside the conservation area. The site is within the Loose Valley Landscape of Local Value. The land relating to the change of use is considered to be Grade 2 agricultural land.
- 1.03 This is a retrospective application with the outbuilding located on the land where permission is sought to change to garden land. The outbuilding is in close proximity to the southern boundary of the site which runs to the rear of the residential properties along The Quarries. The site is situated in an elevated position in comparison to those properties within The Quarries with an existing established hedge located on the boundary.

### **2. PROPOSAL**

- 2.01 This retrospective application seeks the erection of an outbuilding to the west of Cliff House with a change of use of part of the site to garden land to reflect this. The outbuilding is proposed to be used as a home gym ancillary to the residential property of Cliff House.
- 2.02 Along with the use of the outbuilding as a home gym, the application proposes the erection of a timber patio area to accommodate a hot tub and outdoor seating area. The outbuilding itself is approximately 16m in width, 5m in depth with a flat roof with a height of approximately 2.9m. The building is black timber clad.
- 2.03 The applicants have submitted a revised location plan and site plan to reflect the extent of change of use from agricultural land to garden land. The area of land measures approximately 200sq m, reduced from approximately 2,700sqm in the previous application.
- 2.04 The proposal also seeks to also reduce the extent of the as built patio to the front of the outbuilding.

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

Maidstone Borough Local Plan (2011-2031): Policies SS1, SP17, SP18, DM1, DM2, DM4, DM30, DM32 and DM33

Emerging Policies: *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.*

Policy LPRSP9 – Development in the countryside

Policy LPRSP15 – Principles of Good Design

Policy LPRQ&D4 – Design principle in the countryside

Policy LPRHou11 – Rebuilding, Extending and Subdivision of Dwellings in the countryside

Policy LPRENV1 : Historic Environment

Policy LPRENV2 : Change of use of agricultural land to domestic garden land.

Neighbourhood Plan: Boughton Monchelsea

Kent Waste and Minerals Plan (amended 2020)

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents: Residential Extensions (2009)

Boughton Monchelsea The Quarries Conservation Area Appraisal dated February 2009

Cock Street, The Green and The Quarries Conservation Areas Boughton Monchelsea Management Plan dated April 2017

Maidstone Landscape Character Assessment 2012 (Updated 2013)

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

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

4.01 2 representations received from local residents raising the following (summarised) issues

- Previous rejection
- general noise and disturbances
- position of development within the site
- overlooking to neighbouring properties
- impact upon setting of the listed building
- change of use land needs to be preserved

##### Boughton Monchelsea Parish Council

4.02 Objection of the application due to detriment to setting of adjacent listed building, unreasonably remote from the existing dwelling, disproportionate and is highly visible from the surrounding countryside and detrimental to the open character of the area and neighbours' amenity, incompliant to Neighbourhood Plan.

#### **5. CONSULTATIONS : None**

#### **6. APPRAISAL**

6.01 The key issues are:

- Background
- Principle of development/Policy
- Impact on visual amenity

- Heritage matters
- Residential Amenity
- Other matters

## Background

6.02 The proposed development seeks the change of use from agricultural land to residential garden land in order to facilitate the retrospective erection of an outbuilding for use as a home gym and decking area. An application for a similar proposal was brought before Members under application 22/500119/FULL. This was refused for the following reasons :

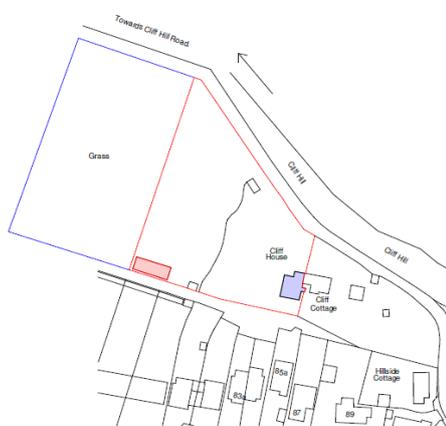
*(1) The proposed change of use of agricultural land to residential garden would result in the encroachment of residential development into the open countryside and the erosion of its undeveloped rural character, which would be harmful to the character and appearance of the countryside. It would also result in the loss of best and most versatile (Grade 2) agricultural land. To permit the proposal would therefore be contrary to Policies SP17, DM1, DM30 and DM33 of the Maidstone Borough Local Plan 2017, Policy PWP5 of the Boughton Monchelsea Neighbourhood Plan and the Central Government Planning Policy set out in The National Planning Policy Framework (2021).*

*(2) The proposed outbuilding would be of excessive scale, particularly in terms of its length and width, such that it would compete with, rather than respect, the host dwelling, and its proposed position would exacerbate the harm by spreading built development across the site. The development would erode the openness of the countryside and cause visual harm to its character and appearance. To permit the proposal would therefore be contrary to Policies SP17, DM1, DM30 and DM32 of the Maidstone Borough Local Plan*

6.03 The applicant appealed the planning decision, with the appeal being dismissed. A copy of the Inspectors decision is attached at Appendix 1.

6.04 The difference between the earlier application and the now proposed is the extent of land proposed for the change of use to garden land. The site plans below show the difference, with the extent of land being reduced from approximately 2,700sqm to approximately 200sq m.

22/500119 site plan



23/504913 site plan



6.05 The Inspector's decision contained the following key points :

## Outbuilding

*"While the outbuilding has a substantial footprint and accommodates a wide range of exercise equipment, the application is on the basis that the building is for domestic use by the appellant and his family. I have seen no convincing evidence to the contrary." (Para 10)*

*"No building suitable for conversion has been brought to my attention. The outbuilding has a flat roof and is clad in black weatherboarding, with window openings limited to one elevation. Overall, its design and appearance are reasonably typical of an ancillary outbuilding serving a substantial dwelling in a rural area. Although the outbuilding is outside the established garden, it is not far from the host dwelling and adjoins the boundary with neighbouring dwellings in The Quarries. Notwithstanding its substantial footprint, it does not compete visually with the host dwelling, due to its clearly subordinate height and design." (Para 12)*

*"Public views into the site are restricted by the extensive boundary hedgerow, although the outbuilding can be seen through one particular gap in the hedge and also from a publicly accessible area of open space further along Cliff Hall Road. From either perspective, the building is located well back, against a backdrop of vegetation. By virtue of its single storey scale and low key appearance, it is neither visually prominent nor intrusive in the landscape. As such, the building is not in itself harmful to the character or appearance of the surrounding rural area." (Para 13)*

*"For the above reasons, while I have found that the outbuilding is not, in itself, harmful to the character and appearance of the area due to its siting, design and scale, the associated change of use would be unacceptably harmful to the surrounding rural landscape. Although the outbuilding is located on the periphery of the site, its erection and domestic use is closely associated with the change of use to garden land. On that basis, the element of the application relating to the outbuilding is not clearly separable from the change of use, based on the details presented in the application." (Para 18)*

*"The outbuilding does not in itself conflict with MBLP Policy DM32 or guidance in the Residential Extensions SPD2 which, amongst other things, require that outbuildings are not excessively prominent, are subservient in scale and clearly ancillary to the dwelling, and that harm to the character and openness of the countryside is avoided. However, this does not outweigh the harm associated with the development as a whole, given the intimate association between the outbuilding and the associated change of use to garden land." (Para 20)*

## Change of use

*"I conclude that the development would be harmful to the availability of best and most versatile agricultural land. As such, it would conflict with Policy DM33 of the MBLP which resists change of use of agricultural land to garden land where it would result in the loss of BMVAL. The development would also conflict with relevant provisions of the Framework which require that the economic and other benefits of BMVAL are taken into account" (Para 26)*

- 6.06 In summary the Inspector found no harm with the outbuilding itself, however the proposed change of use of best and most versatile agricultural land was considered unacceptable, together with the impact on the character and appearance of the countryside associated with giving the site a more formal and domesticated appearance, at odds with the rural character of its surroundings. The Inspector was clear within the appeal scheme that the change of use and the outbuilding were explicitly linked and therefore could not draw any other conclusion than dismiss the

scheme as a whole (highlighted in the final sentences of paragraphs 18 and 20 of the appeal decision).

- 6.07 It is the officer's view that the Inspector was principally concerned by the extent of the proposed change of use. In concluding that the building itself is acceptable, it would logically follow that the change of use of the land surrounding it would be. It would be difficult to argue that the building itself would cause no harm whereas the change of use of the land it is sited on would.

#### **Principle of development/Policy**

- 6.08 Policy DM33 of the Local Plan relates to the change of use of agricultural land to domestic garden land. It sets out that :

*'Planning permission will be granted for the change of use of agricultural land to domestic garden if there would be no harm to the character and appearance of the countryside and/or the loss of the best and most versatile agricultural land.'*

- 6.09 The pre-ambule to the policy sets out :

*'The domestication of the countryside, through the replacement of open pasture with lawns, domestic plants and garden furniture is generally harmful to the integrity and character of rural landscapes.'*

*'In some cases, applicants may seek development that results in the infill of an area between existing clear boundaries to existing built development. Where development constitutes such infilling and is in keeping with the layout of the existing built environment, the impact upon the countryside is likely to be minimised.'*

- 6.10 Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings and their settings and any special architectural or historic features which they possess. The court have determined that considerable weight and importance should be given to any harm found to the significance of listed buildings.
- 6.11 Section 72(1) of the Town and Country Planning Act 1990 requires that special regard is had to the question of whether or not a proposed development would preserve or enhance the special character of the conservation area. There is a presumption that development which would not do so should be refused.
- 6.12 Local plan policies DM4 and SP18 similarly seeks to preserve listed buildings and their settings, and the special character of conservation areas, in an appropriate manner and this is also carried forward into emerging policies.
- 6.13 Policy DM1 (Principles of good design) outlines the importance of high-quality design for any proposal. Amongst other things, well-designed proposals respond positively to their context in visual terms by respecting landscape character and the character and form of the host building, as well as preserving the amenities of neighbouring occupiers.
- 6.14 The countryside is a valuable and finite resource which should be protected for its own sake and for the benefit of future generations. Consequently, development there should be limited and Local Plan Policy SP17 requires that "*Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.*"

6.15 Policy DM30 requires, *inter-alia*, that where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area. Policy DM32 echoes similar sentiments, requiring that proposals for the construction of new or replacement outbuildings should be subservient in scale, location and design to the host dwelling and cumulatively with the existing dwelling remain visually acceptable in the countryside.

6.16 Relevant design guidance in the adopted SPD includes:

*Garages and other outbuildings should not impact detrimentally on the space surrounding buildings. They must be smaller in scale and clearly ancillary to the property. (Paragraph 5.28)*

*Their scale should not exceed what might reasonably be expected for the function of the building. Garages and outbuildings for domestic purposes do not normally need to exceed a single storey in height or have excessive volume. (Paragraph 5.29)*

*There should be no adverse impact on the character or openness of the countryside. (Paragraph 5.30)*

*The impact of a garage or other outbuilding would be greater if located in a prominent location where it would be highly visible (Paragraph 5.30)*

*Garages and outbuildings should not compete with the main house and consequently should be sympathetically positioned away from the front of the house and should be simpler buildings. (Paragraph 5.32)*

6.17 Turning to residential amenity, criterion iv of Local Plan Policy DM1 requires new development to respect the amenities of occupiers of neighbouring properties and states that it should not result in, *inter alia*, unacceptable overlooking or visual intrusion, or an unacceptable loss of privacy or light for the occupiers of nearby properties.

6.18 Consequently, there is general Development Plan policy which allows for the proposals sought to be regularised subject to proposals being of appropriate scale and design and having an acceptable impact on the surroundings and neighbours etc. It is therefore concluded that the proposed development is acceptable in principle. The finer detail of the proposals will now be considered.

### **Impact on visual amenity**

#### **Outbuilding**

6.19 The application proposes the retrospective erection of an outbuilding to accommodate a 'home gym'. The outbuilding, positioned to the south-west of Cliff House, is constructed with a finishing material of timber cladding, with a flat roof and a timber porch and decking.

6.20 As stated in the appeal decision, the inspector found that the proposal "does not compete visually with the host dwelling, due to its clearly subordinate height and design" and "the building is not in itself harmful to the character or appearance of the surrounding rural area."

6.21 The Inspector also found that, "whilst the outbuilding has a substantial footprint and accommodates a wide range of exercise equipment, the application is on the basis that the building is for domestic use by the appellant and his family. It is thought

that the proposal would improve the residential amenity for the residents of the host building, and the use as a gym facility is beneficial.”

- 6.22 Policy DM 30 states that the type, siting, materials and design, mass and scale of development and the level of activity would maintain local distinctiveness including landscape features. It goes on to say that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing vegetation.
- 6.23 The proposed materials are considered to be suitable for outbuildings within the countryside and in accordance with the Residential Extensions SPD in terms of the materials used and the architectural design of the outbuilding.
- 6.24 In this instance, it is considered that due to the distance between Cliff House and the proposed outbuilding being such that the proposed outbuilding can be seen as ancillary to the original dwelling.
- 6.25 Views into the site and of the proposed development are limited by the boundary hedgerow, and a large residential gate. The proposed development is unobtrusively located, of small scale, and constructed of materials which blends into the backdrop of vegetation, making it unobtrusive to the landscape.
- 6.26 To ensure future protection, the existing hedges and planting to the northern and southern boundaries can be protected by condition to retain the open and verdant character of the countryside.
- 6.27 The proposal is in accordance with policy RH 1 of the neighbourhood plan in that whilst there is a stated “Preference...to development on brownfield land, within settlement boundaries” there is “...no significant adverse impact on the landscape or infrastructure...” from the proposal. The application through the building siting and discrete materials demonstrates how it responds “...positively to the established local character, including rural character and topography”. The application sits “...comfortably alongside existing development respecting the privacy, wellbeing and quality of life of any existing residents. The application is in line with policy RH 7 of the neighbourhood plan as the building fits well in their context, and does “...not harm neighbours’ amenity or privacy”.
- 6.28 In accordance with the Inspector’s decision the outbuilding itself is not considered harmful, any harmful impact would be from the change of use of land to garden land. However the extent of the change of use has now been reduced to solely be around the building itself. The loss of agricultural land has been significantly reduced.
- 6.29 The Inspector in terms of the change of use, principally raised that the change would allow for the unrestricted paraphernalia etc which could harm the character and appearance of the area. With the reduction in land proposed to be changed solely around the building itself any greater harm would be significantly diminished, with the Inspector already finding the building itself as being acceptable. The loss of best and versatile agricultural land to site the building is small, such that the economic impact as such would be diminished.

### **Change of Use**

- 6.30 The scale of land which is proposed to change from agricultural land to garden space has reduced from 2,700sqm in the previous application to around 200sqm. This consequently limits domestic use, and use of land inconsistent to the countryside such as garden paraphernalia. As such, the negative impact on visual amenity has been greatly reduced.



- 6.31 As set out above Policy DM33 of the Local Plan does allow for the change of use of agricultural land (the fallback use of land) to residential garden, provided that the land is not best and versatile and harm to the character and appearance of the countryside would not result and it would not result in the loss of best and versatile land.
- 6.32 At appeal, the inspector found that, with the change of use of land, retention of this vegetation in perpetuity, at the same height and depth, cannot be guaranteed. It was found that there would be risk of lawn transformation, garden furniture and paraphernalia. As such, it would be harmful to the character and appearance of the area.
- 6.33 These concerns have been sufficiently addressed, reducing the proposed change of use land from 2,700sqm to around 200sqm. As such, the negative impact on visual amenity has been greatly reduced, the openness of the countryside is protected, and the loss of agricultural land is significantly reduced.
- 6.34 The small size of the proposed land to be changed from agricultural land to garden limits any domestic use on the site. This consequently limits use of land inconsistent to the countryside such as garden paraphernalia. As such, the negative impact on visual amenity has been greatly reduced. Together with the extent of loss of higher quality agricultural land such that the economic impact is significantly reduced with the reduction in land for which the change of use is sought.

*Overall*

- 6.35 The reduction in land proposed to change to garden land is considered to overcome the Inspectors concerns such that the harm to the character and appearance of the countryside is greatly diminished with the Inspector finding the outbuilding itself as being acceptable in terms of visual impact.

**Residential Amenity**

- 6.36 The built outbuilding is located on the southernmost boundary of the land owned by the applicant. Beyond the southern boundary are the rear garden areas of the properties along 'The Quarries', at the base of a steep slope.
- 6.37 The properties along The Quarries benefit from reasonably deep rear gardens, resulting in a reasonable separation distance from the proposed outbuilding. The rear elevation of the proposed outbuilding does not feature any windows, meaning that there is no impact upon overlooking matters to the rear gardens of the properties along The Quarries and in any event, there is an established hedge on the boundary.

- 6.38 The outbuilding would not result in any undue impacts upon the outlook of the adjacent neighbouring properties due to the significant separation distances. The scale is also appropriate in ensuring that no unacceptable harm to residential amenity results from the development.
- 6.39 The proposed development is for ancillary residential use and as a result there are no planning grounds to refuse planning permission in relation to unacceptable levels of noise and disturbance.
- 6.40 Therefore, in light of the above, the proposed development is acceptable in terms of its impact upon residential amenity.

#### **Heritage matters**

- 6.41 The land for which a change of use is sought is adjacent to the original garden of the Grade II listed Cliff House, a residential property that is listed alongside Cliff Cottage, the neighbouring property to the east. The statutory listing describes the heritage asset as a "house pair, Later C16 or early C17, with early-to-mid C19 facade to left. Timber framed with plaster infilling to right of stack, red brick in Flemish bond under and to left of stack".
- 6.42 The outbuilding, which is the subject of this application, is located on the land to the west of Cliff House with a separation distance of circa 50 metres. The land is outside the curtilage and currently approved garden land of the dwelling and within the setting of the Conservation Area, with the original garden and house within the Boughton Monchelsea The Quarries Conservation Area. Therefore, the impact upon the setting of the listed building and impact on the setting of the Conservation Area should be considered.
- 6.43 As mentioned previously, the proposed outbuilding is located a comparatively large distance from the original dwelling. However, in accordance with guidance provided by Historic England, outbuildings and other structures should not adversely affect the setting of a listed building. The scale of the outbuilding is not considered to detract from the historic significance of the Grade II listed heritage asset.
- 6.44 The design and position of the outbuilding are not considered to detract from the setting of the Conservation Area. The building is single storey, timber clad and although fairly large in footprint, it is situated in a discreet position which is not harmful to designated heritage assets.
- 6.45 By virtue of the location of the outbuilding and its scale, the proposals would not cause adverse harm to any designated heritage assets. Therefore, the proposals are not in conflict with policies SP18 and DM4 of the Local Plan (2017) nor the policies contained within the Boughton Monchelsea Neighbourhood Plan.

#### **Other matters**

- 6.46 In itself the proposal would not result in the need for further ecological surveys, there is not considered to be any protected species which would be at risk. Policy DM1, the residential extensions SPD, the NPPF and the Boughton Monchelsea Neighbourhood Plan all promote ecological enhancement and due to the nature and extent of the proposals it is considered that biodiversity enhancements would need to be provided. Due to the retrospective nature of the proposal and the design of the outbuilding, it is unlikely that these enhancement measures can be integral therefore such measures shall be conditioned to be provided within the application site.

- 6.47 The NPPF, Local Plan and residential extensions SPD all seek to promote the use of renewables. The proposal is for an outbuilding, primarily to be used as a gym, ancillary to the main dwelling. Although a sizeable building, with the low stand-alone energy requirement, together with its proposed use a requirement to provide renewable energy generation would be reasonable and would fail to meet the statutory condition tests.
- 6.48 Due to the countryside location and the site's ability to impact on the setting of designated heritage assets it is considered that details of any external lighting should be conditioned.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.49 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 Overall, for the reasons set out in this report, the proposed development would not be in conflict with Policies SP17, SP18, DM1, DM4, DM30, DM32 and DM33 of the Local Plan (2017), the guidance contained within the Residential Extensions SPD (2009) nor the Boughton Monchelsea Neighbourhood Plan
- 7.02 The Inspector raised no objection to the outbuilding itself and the proposal for change of use by significantly reducing the extent of the land, sufficiently addresses the concerns raised in the Appeal Decision Report for application 22/500119/FULL (APP/U2235/W/23/3317837) – see appendix 1 for appeal decision.

### **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 carried out in accordance with the following approved plans and documents:
  - Drawing No.01: Existing Floor Plans (& Location Plan);
  - Drawing No. 02: Existing Elevations;
  - Drawing No.04 Rev.A: Proposed Block Plan.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents

- 2) The change of use hereby permitted shall cease and the approved outbuilding demolished, and all materials brought onto the land for the purposes of such use and arising from the demolished building shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) within 3 months 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:

- a) a biodiversity landscape plan setting out how the development will enhance biodiversity including clear ecological enhancement for breeding birds and bats and provision of bat boxes, bird boxes, and native planting, together with a timetable for implementation.
- b) A site plan showing all existing trees and hedges along the southern and northern boundaries of the site. These shall be identified to be retained and the details shall include a plant specification (including species, position and height, a maintenance schedule and a 5 year management plan.
- c) Detailed plan and a timescale for reducing the extent of patio on the northern elevation (as indicated and annotated on the approved existing floor plans, Drawing No.01).

(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 countryside location, in the interests of biodiversity and ecology.

- 3) Any trees or hedges identified in Condition 2ib) which within five years from the date of that decision dies 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 site plan unless the local planning authority gives written consent to removed.

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

- 4) 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 approved details shall be in accordance with the Institute of Lighting Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E1. 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 scheme of lighting shall be installed, maintained and operated thereafter in accordance with the approved scheme

Reason: To ensure lighting does not result in adverse harm upon neighbour amenity, the character of the countryside and designated heritage assets.

- 5) Notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking

and re-enacting that order with or without modification), no further development within Schedule 2, Part 1 Classes E and F and Part 2 Classes A and B shall be carried out on the additional garden land hereby permitted.

Reason: To safeguard the character and appearance of the designated heritage asset; to safeguard the character and appearance of the countryside hereabouts; and in the interests of residential amenity.

- 6) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the south facing elevation of the outbuilding hereby permitted.

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

- 7) The additional accommodation to the principal dwelling hereby permitted shall not be sub-divided, separated or altered in any way so as to create a separate self-contained unit; and shall only be used as ancillary accommodation to the main dwelling currently known as Cliff House Cliff Hill Boughton Monchelsea Maidstone Kent ME17 4NQ

Reason: Its use as a separate unit would result in an unsatisfactory relationship with the principal dwelling and would be contrary to the provisions of the development plan for the area within which the site is located.

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



## Appeal Decision

Site visit made on 23 August 2023

by **Jane Smith MA MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27<sup>th</sup> September 2023**

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**Appeal Ref: APP/U2235/W/23/3317837**

**Cliff House, Cliff Hill, Boughton Monchelsea ME17 4NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Andrew Coombe against the decision of Maidstone Borough Council.
  - The application Ref 22/500119/FULL, dated 11 January 2022, was refused by notice dated 26 January 2023.
  - The development is described as 'Retrospective application for the change of use to garden land and the erection of 1no. outbuilding to house home gym with associated decking, patio and hot tub area'.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by the appellant against Maidstone Borough Council. This application is the subject of a separate decision.

### Preliminary Matters

3. In the banner heading above, I have used the description of the development as it appeared on the Council's decision notice. This was amended from the description given on the application form, to include change of use of the site to garden land. The appellant agreed to the Council's revised description prior to determination of the application and I am satisfied that that it accurately describes the development in question.
4. Amended plans were submitted before the Council determined the application, reducing the extent of the application site and therefore the area for which planning permission is sought for use as garden land. The amended application site is shown on plan BL/DRG/08092021/02.1 Rev B. I have considered the appeal on the basis of this amended plan.
5. The outbuilding has already been erected and land within the application site is being used and maintained as part of the garden. Therefore I am considering the development retrospectively. I established during my site visit that the location and appearance of the outbuilding corresponds with the details shown on the application drawings, although additional exercise equipment which has been erected next to the outbuilding is not shown on those drawings. For the avoidance of doubt, I have considered the appeal based on the details shown on the application drawings.

6. While I have noted that the appellant states the application site has been used and maintained as part of the grounds and garden of Cliff House for some time, it is not the function of this appeal to determine the lawfulness or otherwise of such use. I have considered the appeal on the basis that it includes change of use from agricultural to garden land, as per the revised description.
7. An examination in public into the Council's Local Plan Review is in progress. Hearing sessions have concluded, but I have not been provided with any further evidence as to the Inspector's initial findings or the extent to which the relevant emerging policies may be subject to further modification. In any case, the Council has confirmed that the substance of the relevant emerging policies remains largely unchanged from the adopted policies and no conflict with the emerging policies was highlighted in the reasons for refusal. Therefore, while I acknowledge that the Local Plan Review is at a relatively advanced stage, I have given its emerging policies limited weight when considering this appeal.

### **Main Issues**

8. The main issues are:
  - the effect of the development on the character and appearance of the area, having regard to both the outbuilding and the associated change of use to garden land, and
  - the effect of the proposal on availability of best and most versatile agricultural land.

### **Reasons**

#### *Character and Appearance*

9. The appeal site is located outside the settlement boundary of Boughton Monchelsea, in a location which is treated as countryside for purposes of the development plan. It includes a Grade II listed building in residential use, known as Cliff House, its established garden and an additional parcel of land to the west of the garden. Within this latter area, a single storey outbuilding has been erected, which houses a variety of exercise equipment, a hot tub and a covered patio area. The outbuilding is within the area where permission for change of use to garden land is sought.
10. While the outbuilding has a substantial footprint and accommodates a wide range of exercise equipment, the application is on the basis that the building is for domestic use by the appellant and his family. I have seen no convincing evidence to the contrary.
11. Outside settlement boundaries, Policy DM30 of the Maidstone Borough Local Plan 2017 (MBLP) requires that any new buildings are unobtrusively located and well screened by suitable vegetation and that no alternative building suitable for conversion is available. Policy DM32 allows for new domestic outbuildings in principle, provided they are subservient in scale, location and design to the host dwelling and remain visually acceptable in the countryside.
12. No building suitable for conversion has been brought to my attention. The outbuilding has a flat roof and is clad in black weatherboarding, with window openings limited to one elevation. Overall, its design and appearance are reasonably typical of an ancillary outbuilding serving a substantial dwelling in a

rural area. Although the outbuilding is outside the established garden, it is not far from the host dwelling and adjoins the boundary with neighbouring dwellings in The Quarries. Notwithstanding its substantial footprint, it does not compete visually with the host dwelling, due to its clearly subordinate height and design.

13. Public views into the site are restricted by the extensive boundary hedgerow, although the outbuilding can be seen through one particular gap in the hedge and also from a publicly accessible area of open space further along Cliff Hall Road. From either perspective, the building is located well back, against a backdrop of vegetation. By virtue of its single storey scale and low key appearance, it is neither visually prominent nor intrusive in the landscape. As such, the building is not in itself harmful to the character or appearance of the surrounding rural area.
14. Policy DM33 of the MBLP allows in principle for change of use of agricultural land to domestic garden where there would be no harm to the character and appearance of the countryside and/or loss of the best and most versatile agricultural land. I return to the latter issue below.
15. Based on the extent of the residential curtilage shown on plans dated 2012, the change of use would significantly increase the garden land around Cliff House. Although this area is also screened by the boundary hedgerows, retention of this vegetation in perpetuity, at the same height and depth, cannot be guaranteed. While the appellant may intend to continue maintaining the land as mown lawn, this could change over time. Future occupiers may wish to introduce a variety of features such as play equipment, garden furniture and other domestic paraphernalia, as well as formal garden landscaping. Such changes are not uncommon within extensive residential gardens and would give the site a more formal and domesticated appearance, at odds with the rural character of its surroundings.
16. The site adjoins agricultural land to the north, which has an expansive and open character. This largely undeveloped area provides a clear sense of separation between Boughton Monchelsea and the larger urban area of Maidstone. It is specifically highlighted in the Boughton Monchelsea Neighbourhood Plan<sup>1</sup> (BMNP) as being worthy of protection. The Council has also highlighted its importance, based on evidence in the Maidstone Borough Landscape Assessment 2012.
17. Given the extent of the appeal site and its location within a landscape area noted for its importance in maintaining separation between urban areas, further domestication and erosion of the site's open character would be harmful to the character and appearance of the area. While conditions could be imposed to limit the scope for further outbuildings, there is no effective planning mechanism to control the wider range of domestic paraphernalia and formal landscaping which could be introduced over time. Given the extent of the site, conditions requiring additional planting would not provide sufficient landscape mitigation.
18. For the above reasons, while I have found that the outbuilding is not, in itself, harmful to the character and appearance of the area due to its siting, design and scale, the associated change of use would be unacceptably harmful to the

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<sup>1</sup> Boughton Monchelsea Neighbourhood Development Plan, July 2021

surrounding rural landscape. Although the outbuilding is located on the periphery of the site, its erection and domestic use is closely associated with the change of use to garden land. On that basis, the element of the application relating to the outbuilding is not clearly separable from the change of use, based on the details presented in the application.

19. For the above reasons, I conclude that the development is harmful to the character and appearance of the area. As such, it would conflict with relevant requirements in Policies SP17, DM1, DM30 and DM33 of the MBLP, Policy PWP5 of the BMNP and relevant paragraphs in the National Planning Policy Framework (the Framework). These policies, amongst other things, require that development outside settlements, including change of use to garden land, avoids harm to the character and appearance of the area and to the open character of land between South Maidstone and Boughton Monchelsea.
20. The outbuilding does not in itself conflict with MBLP Policy DM32 or guidance in the Residential Extensions SPD<sup>2</sup> which, amongst other things, require that outbuildings are not excessively prominent, are subservient in scale and clearly ancillary to the dwelling, and that harm to the character and openness of the countryside is avoided. However, this does not outweigh the harm associated with the development as a whole, given the intimate association between the outbuilding and the associated change of use to garden land.
21. Policy RH7 of the BMNP relates to residential annexes including conversion of outbuildings to form an annexe. The outbuilding in this case is not used as an annexe to the main dwelling, but for private exercise facilities. Therefore while I have noted the contents of Policy RH7 I have given it limited weight.

#### *Best and Most Versatile Agricultural Land*

22. While Policy DM33 of the MBLP allows in principle for change of use to garden land, this is subject to avoiding loss of the best and most versatile agricultural land (BMVAL). The Framework defines BMVAL as land in grades 1, 2 and 3a of the Agricultural Land Classification and requires decision-makers to recognise the economic and other benefits of BMVAL (Framework paragraph 174).
23. The Council's evidence states that the site is Grade 2 agricultural land, based on the 2020 Agricultural Land Classification. This is described as 'highly graded' agricultural land in the supporting text to Policy DM33. While highlighting that this is contrary to an earlier statement in the Officer Report, the appellant has not disputed this updated evidence. Therefore, based on the evidence before me, the site comprises BMVAL for purposes of Policy DM33 and the Framework.
24. The supporting text to Policy DM33 says that the Council will take into account whether highly graded agricultural land is functionally well located for agricultural purposes, such that future agricultural use is feasible. In this case, the land in question is adjacent to a significant expanse of agricultural land in active use. Although land to the south of Cliff Hill Road is not being actively farmed, no technical evidence has been provided to demonstrate that its use for agricultural purposes in future is no longer feasible. Indeed, the Council's evidence refers to historic use of the land for grazing and arable purposes, albeit at some unspecified date in the past. While I appreciate that the appeal site is currently in private ownership, and not available for productive

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<sup>2</sup> Maidstone Local Development Framework Residential Extensions Supplementary Planning Document 2009

agricultural use, the site could feasibly be owned and accessed separately, should these circumstances change.

25. Given its close relationship with agricultural land in active use, and the Council's evidence as to its Grade 2 status which has not been disputed, the evidence indicates that the land remains capable of productive use, at least in the long term. On that basis, the change of use to garden land would result in loss of BMVAL. Furthermore, such loss would be potentially irreversible, depending how the land in question was managed and maintained.
26. For the reasons given above, I conclude that the development would be harmful to the availability of best and most versatile agricultural land. As such, it would conflict with Policy DM33 of the MBLP which resists change of use of agricultural land to garden land where it would result in the loss of BMVAL. The development would also conflict with relevant provisions of the Framework which require that the economic and other benefits of BMVAL are taken into account.

### **Other Matters**

27. I have noted that the outbuilding houses equipment which supports a family member with management of a health condition, on medical advice. With that in mind, when considering the appeal I have had appropriate regard to the aims of the Public Sector Equality Duty set out in s149 of the Equality Act 2010 (PSED).
28. I acknowledge that the availability of private facilities would be of benefit in these circumstances and that travel to alternative facilities may be difficult or impractical for a variety of reasons. However, the evidence does not clearly demonstrate that suitable home exercise facilities can only be provided on this scale, or that there is any clear need for the garden to be enlarged in support of this requirement. As such, there is little specific evidence that refusal of planning permission would result in a failure to advance equality of opportunity or otherwise conflict with the aims of the PSED. Therefore, while I have had appropriate regard to the family situation, it carries only modest weight.
29. The Council has not alleged any harm to the setting or significance of the Grade II listed building Cliff House, or the setting of the Boughton Monchelsea The Quarries Conservation Area. Having considered the development and visited the site, I have no reason to reach a different view. However, this is a neutral factor which weighs neither for nor against the proposal.
30. Likewise, even if I were to agree with the appellant that the development is not unacceptably harmful to living conditions for occupiers of neighbouring properties, this is a neutral factor which is not capable of overcoming the conflict with other aspects of the development plan.
31. The application was amended in response to advice from Council officers and was recommended for approval. However, local planning authorities are not bound to accept the recommendations of their officers and my consideration of the appeal has been based on the evidence before me.

### **Conclusion**

32. I have found that the development would be harmful to the character and appearance of the area and would result in loss of best and most versatile

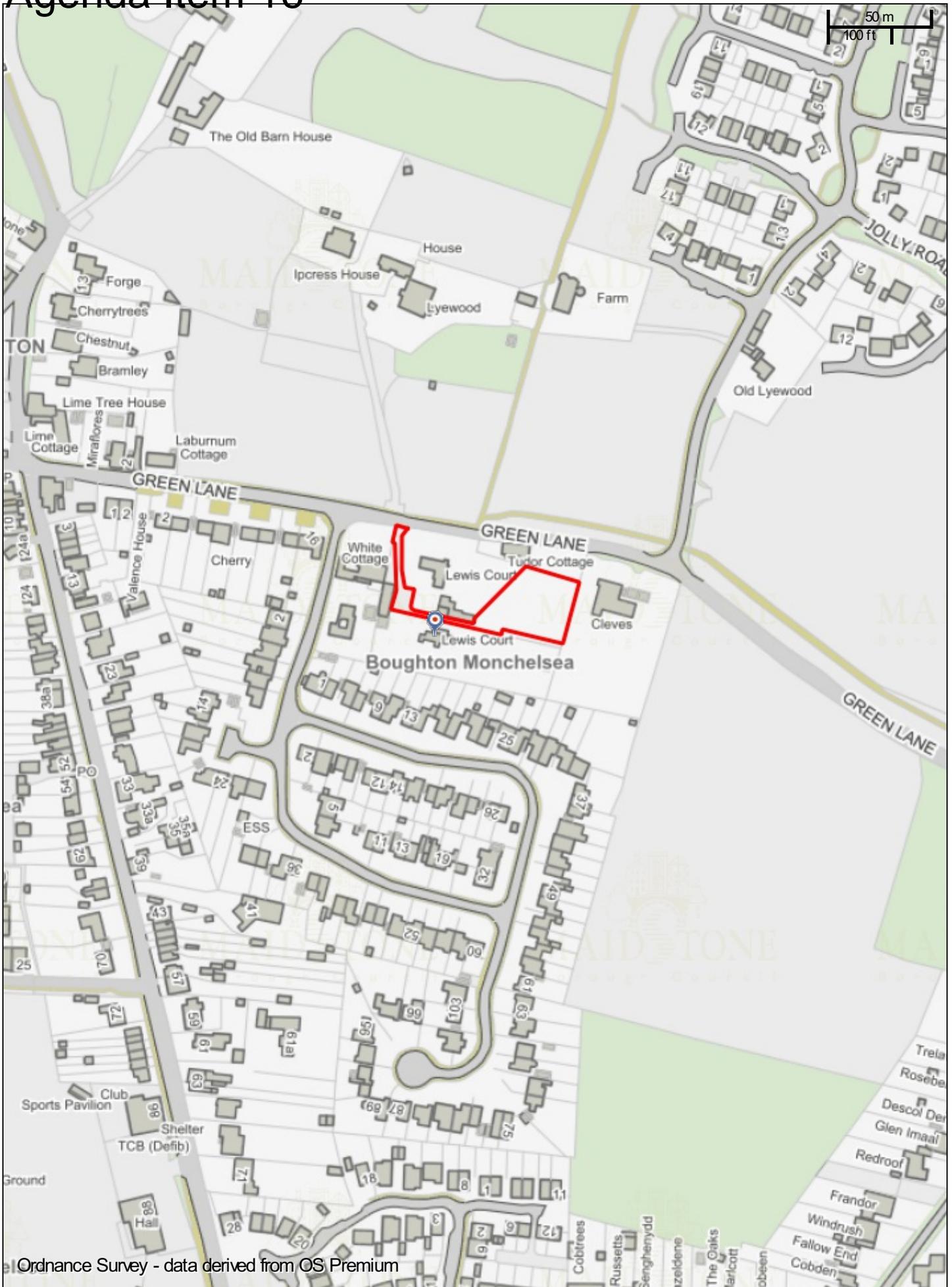
agricultural land. The harm arises primarily from the change of use to garden land. However, this cannot be clearly separated from the erection and domestic use of the outbuilding, which is within the same part of the site.

33. I have had due regard to the PSED, recognising that the availability of private gym facilities is beneficial for reasons relating to management of a health condition. However, the weight attributed to this benefit is moderated by the lack of clear evidence to justify the scale or location of the development. On that basis, this benefit of the development does not outweigh the harm I have identified.
34. Therefore, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that it is proportionate and necessary to dismiss the appeal.

*Jane Smith*

INSPECTOR

# Agenda Item 16



Ordnance Survey - data derived from OS Premium

**23/504867/FULL Land at Lewis Court, Green Lane, Boughton Monchelsea, Maidstone, Kent, ME17 4LF**

Scale: 1:2500

Printed on: 8/1/2024 at 12:53 PM by JoannaW

<b>REFERENCE NUMBER:</b> 23/504867/FULL		
<b>APPLICATION PROPOSAL:</b> Erection of 1(no) 3-bedroom dwelling and 1(no) 4-bedroom dwelling, with associated access, parking and landscaping.		
<b>ADDRESS:</b> Land at Lewis Court, Green Lane, Boughton Monchelsea, Maidstone, Kent, ME17 4LF		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Boughton Monchelsea Parish Council have requested for application to be considered by Planning Committee if officers are minded to recommend approval. This request is made for the reasons outlined in the consultation section below.		
<b>WARD:</b> Boughton Monchelsea & Chart Sutton	<b>PARISH COUNCIL:</b> Boughton Monchelsea	<b>APPLICANT:</b> Mr J. Anscombe <b>AGENT:</b> DHA Planning Ltd
<b>CASE OFFICER:</b> Kate Altieri	<b>VALIDATION DATE:</b> 30/10/23	<b>DECISION DUE DATE:</b> 22/01/24
<b>ADVERTISED AS A DEPARTURE:</b> No		

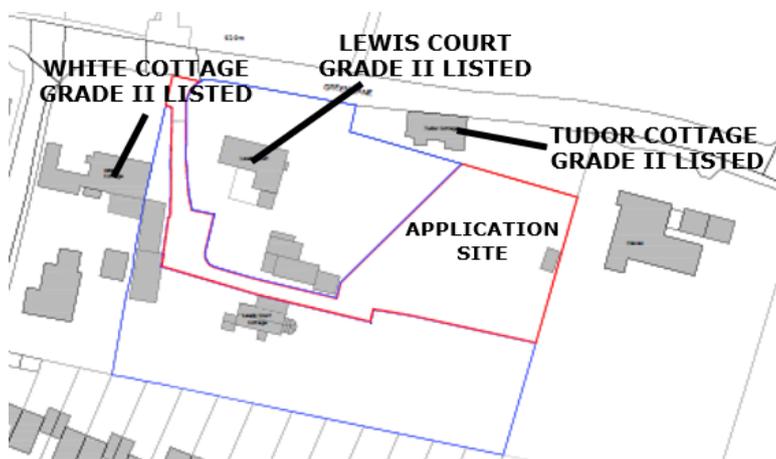
### RELEVANT PLANNING HISTORY

- 20/506112 – Erection of dwelling (resub of 20/502940) – Recommended for approval but refused by Planning Committee (allowed at appeal – Ref: APP/U2235/W/21/3275996)
- 20/502940 - Erection of detached dwelling - Withdrawn
- 19/501210 – LBC for demolition of existing boundary piers and wall - Approved
- 19/501209 – Erection of boundary wall/railings and new gateway arrangement - Approved
- 19/501093 – Pre-app: Proposed detached dwelling
- 16/508513 – 2 dwellings – Recommended for approval but refused by Planning Committee (allowed at appeal with partial award of costs to appellant – Ref: APP/U2235/W/18/3197693)
- 16/502889 – Pre-app: Erection of 3 dwellings

### MAIN REPORT

#### 1.0 SITE DESCRIPTION

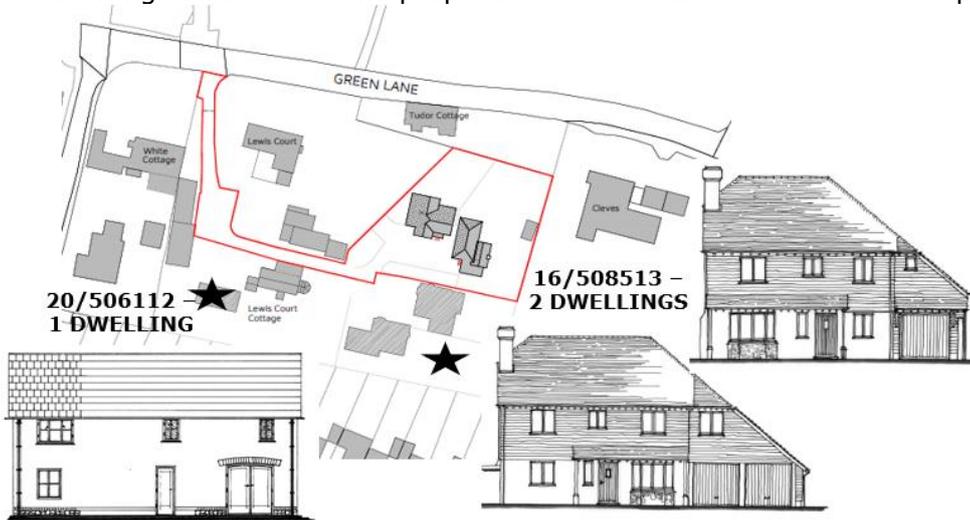
1.01 The application site relates to an area of land located to the east of Grade II listed Lewis Court, which is understood to date from the early sixteenth century and is a typical Wealden Hall House; Tudor Cottage, a Grade II listed property, is located to the north of the site; and to the far west of the site there is Grade II listed White Cottage (see plan below):



1.02 The site is relatively flat and enclosed by existing and well-established planting; the land is currently associated to Lewis Court; and the existing access to and from the site is from Green Lane, to the west of the application site. For the purposes of the adopted Local Plan, the proposal site is within the defined village boundary of Boughton Monchelsea. The site is also within an area of archaeological potential; Flood Zone 1; and within a KCC Minerals Safeguarding Area.

## 2.0 BACKGROUND INFORMATION

2.01 The drawings below show the proposal in the context of other relevant planning history:



## 3.0 PROPOSED DEVELOPMENT

3.01 The application is described as: *Erection of 1(no) 3-bedroom dwelling and 1(no) 4-bedroom dwelling, with associated access, parking and landscaping.*

3.02 The submission provides the following details (in summary):

- Access to and from the site will be taken via the existing (unaltered) access.
- Plot 1 will have 2 independently accessible parking spaces; plot 2 will have a single car barn and an external parking space; and there is vehicle turning space within site.
- Both dwellings would stand less than 9m in height (similar to dwellings approved under 16/508513).
- Design of dwellings reflects design of 2 dwellings allowed at appeal (16/508513); and in terms of materials, both dwellings will have a ragstone plinth; white timber weatherboarding; white heritage style timber sash windows; and a mix of natural grey slate and clay roof tiles, reflecting local vernacular.



## 4.0 POLICY AND OTHER CONSIDERATIONS

- 2017 Local Plan: SS1, SP11, SP12, SP18, SP19, DM1, DM2, DM3, DM4, DM5, DM8, DM11, DM12, DM23
- Boughton Monchelsea Neighbourhood Plan (2021-2031)
- Landscape Character Assessment (2012 amended July 2013) & Capacity Study (2015)
- National Planning Policy Framework (Dec 2023) & National Planning Practice Guidance
- Kent Minerals & Waste LP (2013-30) as amended by Early Partial Review (2020)
- Para 99 of Govt Circular (ODPM 06/2005) Biodiversity & Geological Conservation
- Natural England Standing Advice
- BS5837:2012 'Trees in relation to construction - Recommendations'
- Regulation 22 Local Plan

### Local Plan

4.01 Local Plan policy SP11 allows for new development within the Larger Village of Boughton Monchelsea when it is:

- An allocated site in the local plan;*
- Minor development such as infilling; or*
- Redevelopment of PDL that is of a size appropriate to the role, character and scale of the village.*

4.02 Local Plan policy SP12 states (of most relevance):

*Outside Maidstone urban area and RSCs, which are most sustainable settlements in the hierarchy, third tier larger villages can accommodate limited growth.*

*(1) In addition to minor development and redevelopment of appropriate sites in accordance with policy SP11, approx. 118 new dwellings will be delivered on five allocated sites (policies H1(51) to H1(55)).*

4.03 Policy DM11 also allows for the redevelopment of garden land in such a location, subject to certain criteria. Furthermore, Local Plan policies seek new development in such locations to be of a high quality design and (inter alia): Respond positively to, and where possible enhance, the local and natural character of the area; respect the amenity of local residents; be safe in highway safety and flood risk terms; protect and enhance any on-site biodiversity features where appropriate or provides sufficient mitigation measures; and be acceptable in heritage terms.

### Regulation 22 Local Plan

4.04 The Council's Reg 22 Local Plan is a material planning consideration and at this time is apportioned moderate weight.

4.05 Within the emerging Plan, Boughton Monchelsea is considered to be a 'Smaller Village'. Here is a list of some of the emerging policies that are considered relevant for this proposal: LPRSS1 (Spatial Strategy); LPRSP8 (Smaller Villages); LPRSP9 (Countryside development); LPRSP10 & 10(A) (Housing mix); LPRSP12 (Sustainable transport); LPRSP14 (Environment); LPRSP14(A) (Natural environment); LPRSP14(B) (Historic environment); LPRSP15 (Design); LPRHOU5 (Density); LPRTRA2 (Transport impacts); LPRTRA4 (Parking); LPRENV1 (Historic environment); LPRQ&D1 (Sustainable design); LPRQ&D2 (Lighting); LPRQ&D6 (Technical standards); LPRQ&D7 (Private amenity space standards).

4.06 Perhaps of most relevance, emerging policy LPRSS1 states (in summary and as set out in Main Mods):

*Maidstone Borough spatial strategy 2021-2038*

*(11) Smaller villages may have potential to accommodate limited growth which will contribute to ensuring local services are supported, and sustainable communities are maintained. This plan allows for limited growth in smaller villages, by designating these as 'broad locations'. This will enable local communities to facilitate development and influence its location and timescale for delivery through Neighbourhood Plans. Identified smaller village locations are Boughton Monchelsea.....et al.*

4.07 Emerging policy LPRSP8 also states (in summary and as set out in Main Modifications):

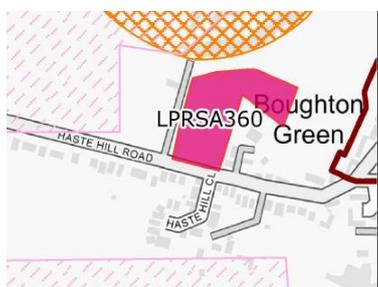
*2. Smaller villages offer limited opportunity for new plan-led development which can support continued sustainability of settlement. This is expected to come forwards through site allocation LPRSA360 (approx. 30 dwellings) and as broad location development, in last 10ys of Plan period. Quantities envisaged are:*

- 35 new units each at Chart Sutton, Laddingford, Kingswood, and Teston
- 25 new units each: Boxley, Detling, Grafty Green, Hunton, Platt's Heath, Stockbury & Ulcombe

*3. Within Smaller Villages, small scale housing development in addition to quantities set out under criterion (2) will be acceptable where all of following apply:*

- a) Scale of development is proportionate to size of settlement and type and level of local services available;*
- b) Development design takes account of landscape impact having regard to setting of settlement in countryside;*
- c) It can be linked to retention or expansion of specific infrastructure or service assets within settlement;*
- d) It has community support, either Neighbourhood Plan or other Parish endorsement e.g. Rural Exception Site;*
- e) Where suitable access can be provided.*

4.08 Please note that site allocation LPRSA360 referred to in emerging policy LPRSP8 is a site known as Campfield Farm in Boughton Monchelsea:



4.09 Emerging policy LPRSP9 also states (of most relevance and as set out in Main Modifications):

- (1) Development proposals in countryside will not be permitted unless they accord with other policies in this plan and they will not result in significant harm to the rural character and appearance of the area.*
- (7) Development in the countryside will retain the separation of individual settlements.*
- (8) Opportunities to improve walking and cycling connections will be supported.*

**Weight given to adopted Local Plan and emerging Local Plan**

4.10 As set out above, the proposal site is within the defined village boundary for Boughton Monchelsea and the principle for new housing in this location is acceptable under the current Local Plan.

4.11 Within the emerging Local Plan, the proposal site would be a 'Smaller Village' within the defined countryside, where there is the potential for limited growth; and where new residential development may be possible where it would not result in significant harm to the rural character and appearance of the area.

4.12 Paragraph 38(6) of the Planning and Compulsory Purchase Act 2004 states: *If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*

4.13 So whilst moderate weight is given to the emerging Local Plan, the 2017 adopted Local Plan remains primary and its policies have been given full weight.

**Boughton Monchelsea Neighbourhood Plan (BMNP)**

4.14 The adopted BMNP forms part of the Development Plan, and some policies relevant to this proposal include: PWP3 (Protection of NDHAs); PWP4 (Provision for new housing development); PWP6 (Sustainable connections); PWP8 (Renewable energy); PWP10 (Lighting); PWP11 (Planting native trees/hedgerows); PWP12 (Biodiversity); PWP13 (Transport/parking provision); RH1 (Location of new residential development); and RH6 (Design of new housing).

4.15 It is important to highlight policy PWP4 that states (inter alia):

*Positive and appropriate provision for new housing development for Boughton Monchelsea parish, and as required by Maidstone Borough Local Plan, is made as follows:*

*B Development may be supported on other windfall sites and through conversions where:*

- (i) It is in line with policies RH1 & RH6 of this plan in particular, is small scale and of high quality and in keeping with its location*
- (ii) AND results in significant benefits to the parish in resolving community issues identified in the Plan such as specific identifiable housing needs OR*
- (iii) It constitutes enabling development contributing to retention & sustainability of heritage and/or community assets OR*
- (iv) It is within Boughton Village development boundary*

4.16 Policy RH1 also states (inter alia):

*New residential development to north of Heath Rd will be supported where it is in Boughton village development boundary, retains dispersed character of existing hamlets in area and avoids visual or actual coalescence and subject to no significant adverse impact on landscape or infrastructure, including parking. Preference will be given to development on brownfield land, within settlement boundaries as set out in Maidstone's LP.*

*Applications for new development must demonstrate how they respond positively to established local character, including rural character and topography, and sit comfortably alongside existing development respecting privacy, wellbeing and quality of life of any existing residents. Supporting info shall include info on streetscene impact and relationship to wider context and topography where appropriate in order to properly assess impact.*

*Proposals for new residential development to south of Heath Rd will not be supported unless they conform with national and local rural exception policies.*

4.17 The site is within the defined village boundary for the purposes of the adopted Local Plan; the site is not within the defined 'Priority Local Landscape' shown in the NBMNP; the development would not have an adverse impact on any 'Key View' shown in the NBMNP; and the site is to the north of Heath Road.

4.18 Please note here that the Planning Inspector considering the appeal under 20/506112 did have regard to the BMNP and stated the following (in summary) within the appeal decision (paragraph 17):

*....I find there would be no harm to heritage significance of setting to any of nearby listed buildings or to non-designated heritage asset. Proposal would respect existing spatial relationships and character and appearance of area as whole. Accordingly, proposal would accord with DM1, DM4, DM11 and SP18 of Local Plan and BMNP policies PWP3, PWP4, RH1 and RH6 which, amongst other things, seek to ensure development responds positively to character of area and significance of heritage assets and their settings is conserved. In this respect proposal accords with NPPF paragraph 130 which, amongst other things, seeks to ensure development is sympathetic to local character and history, including surrounding built environment and landscape setting.*

**Council's Landscape Character Assessment & Capacity Study**

4.19 The Landscape Character Assessment (LCA) identifies the site as falling within the Boughton Monchelsea to Chart Sutton Plateau LCA (Area 29); and the guidelines are to 'IMPROVE'.

4.20 The Council's Capacity Study for the LCA states: *Area is assessed as being of low overall landscape sensitivity and is therefore 'tolerant of change'. Housing development should be focussed within and immediately adjacent to existing settlements in keeping with existing.*

**Other matters**

4.21 The NPPF is clear that good design is a key aspect of sustainable development; and section 16 refers to conserving and enhancing the historic environment.

4.22 The Council's position is that it can demonstrate a supply of specific deliverable sites sufficient to more than 5yrs of housing and so the NPPF's tilted balance is not triggered.

**5.0 LOCAL REPRESENTATIONS**

5.01 **Local Residents:** 2 representations received raising concerns over: Impact upon character and appearance of area; impact on heritage assets; highway safety/parking; buildings are of poor design and it is overdevelopment of site; it is not in accordance with emerging Local Plan; and the Parish wish to see the application refused.

## 6.0 CONSULTATION RESPONSES

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

6.01 **Boughton Monchelsea Parish Council:** Wish to see application refused and reported to Planning Committee if officers are minded to recommend approval. In summary, they comment:

*When considered with 3 homes already consented on site, proposal represents over-intensive form of development that jars with spatial character of immediate area, contrary to LP policies DM1 & DM11 & NPPF. Since previously consented applications were decided at appeal, Boughton Monchelsea NP has come into effect and application fails to comply with NHP policies PWP3, PWP13 and RH1.*

*Proposal would have detrimental effect on setting of adjacent listed buildings and would alter context in which they have sat for hundreds of years. Existing listed buildings have great group value, reflecting significant period in Boughton Monchelsea's history. Proposed contemporary dwellings would be severely detrimental to this, creating cramped, overdeveloped site, especially when considered alongside 3 previously consented dwellings.*

*Only 1 parking space shown for plot 2 (4-bed) and 2 spaces for plot 1 (3-bed). This is completely inadequate and there would be total of 5 consented properties on site, all accessed via long, narrow, single track driveway. As such there would be risk of vehicles backing up on Green Lane during inevitable conflict of inward/outward traffic. Green Lane is narrow with no footpaths on this side of road and risk to drivers/pedestrians would be significant. Likely each of 5 dwellings would have more than 2 cars. Proposal would cause unacceptable overlooking of private amenity space of adjacent dwellings.*

*Clarification is required regarding refuse collection arrangements which will present additional safety risks on Green Lane. Road in front of Lewis Court was narrowed 2/3yrs ago as part of Lyewood Farm development, with signed priority system in place for drivers. Planning statement references Boughton Monchelsea being a larger village – this should have referred to emerging policy which defines Boughton Monchelsea as a smaller village.*

6.02 **MBC Conservation Officer:** Raises no objection to application on heritage grounds (see main report):

6.03 **MBC Tree Officer:** Raise no objection on arboricultural grounds (see main report).

6.04 **KCC Biodiversity Officer:** Raises no objection to proposal (see main report).

6.05 **KCC Archaeological Officer:** Raises no objection to proposal (see main report).

6.06 **Environmental Protection Team:** Raises no objection to proposal (see main report).

6.07 **KCC Minerals Safeguarding Team:** Confirms they have no land-won minerals or waste management capacity safeguarding objections or comments to make regarding this matter.

## APPRAISAL

### 7.0 Main issues

7.01 The key issues for consideration relate to:

- Impact upon character and appearance of area;
- Heritage implications;
- Residential amenity;
- Highway safety implications;
- Biodiversity implications;
- Arboricultural implications; and
- Other matters.

7.02 The details of the submission will now be considered.

Impact upon character and appearance of area

- 7.03 It is acknowledged that the proposal would see an increase in built form on the site. However, the resulting density would remain low; the proposed dwellings would positively reflect the scale and design of the two dwellings already approved on land to the south of the site (under 16/508513), that have previously been accepted by the Planning Inspectorate; the layout and footprint of the houses and the plot sizes would not appear incongruous within the surrounding context, where plots are varied in size and shape (including the 3 properties yet to be built); the development would leave ample space around the Grade II listed Lewis Court and it would not be objectionable in heritage impact terms (see below for detailed assessment); and any public view of the proposed houses would be limited and at short range, given their set back from the road and the existing buildings, planting, and boundary treatments that would provide screening. With this all considered, the view is taken that the proposal would be very much read in the context of surrounding development and so would not appear out of context with the predominant density, and the pattern and grain of development in the locality.
- 7.04 Furthermore, the dwellings would also benefit from acceptable sized private gardens with external access; the scheme allows for the retention and strengthening of planting along the outer boundaries of the site (that can be secured by condition), and this together with the centrally located dwellings, creates a sense of space within the development. On this basis, it is considered that the proposal would not represent an unacceptably cramped form of development.
- 7.05 In terms of the design and appearance of the new dwellings, the steeply pitched roofs, the catslide roof elements, timber bargeboards; and the external chimney features compliment the surrounding historic buildings; and the use of high quality materials including ragstone, timber weatherboarding and sash windows, multi-stock brick, and clay and/or natural slate roof tiles would ensure a high quality finish to the scheme. The use of a small materials palette that is appropriate to the area will also ensure a cohesive development; and the overall scale and design of the dwellings would also not unacceptably jar with the character and appearance of existing surrounding development. The external finishes for the buildings and hard boundary treatments can also be secured by way of appropriate condition; and permitted development rights will be removed to extend the properties and to erect hard boundary treatments, to further safeguard the character and appearance of the scheme.
- 7.06 On this basis, it is considered that this proposal would be of an acceptable scale and design; it would not result in significant harm to the character and appearance of the area; and it would not appear dominant nor visually harmful when viewed from any public vantage point. The proposal would therefore accord with Local Plan policies SP11, SP12, DM1 and DM11 and Boughton Monchelsea Neighbourhood Plan policies RH1, RH6 and PWP4.

Heritage implications

- 7.07 The Council's Conservation Officer raises no objection to the application on heritage grounds, and comment as follows (in summary):

*Impact on significance: Main consideration is impact on setting of listed buildings. In this instance Lewis Court and Tudor Cottage are affected by proposal. Historic maps from C19 show what is now application site as woodland, more recently modern development has encroached on site from north east. Immediate setting of both buildings is garden, these areas make a positive contribution to significance of both buildings. To north east of site is mature planting and Lewis Court is also screened by mature planting.*

*Applicant proposes 2 dwellings with parking and landscaping to south east of Lewis Court and Tudor Cottage. It is important to note recent planning history. Most recent application was refused and allowed on appeal. 3 units in vicinity of site have previously been recommended by Officers and allowed at appeal. In terms of design and form, proposed dwellings are in Arts and Crafts style with traditional materials such as ragstone plinth, white weather boarded cladding, sash windows and grey slate tiles and is considered appropriate on heritage grounds. Dwellings are unlikely to dominate area and would be sited well away from listed buildings. Due to separation distance between application site and the listed buildings, existing mature planting and design of the proposed development, it would not result in substantial harm to setting of listed buildings in the area.*

- 7.08 With the specialist Conservation Officer advice considered, it is agreed that the proposal would cause less than substantial harm to the significance of surrounding listed buildings. With reference to NPPF paragraph 208, this harm needs to be weighed up against the public benefits of the proposal. The proposal would provide windfall housing in a sustainable location; and there would be some economic

benefits in terms of job creation from construction and future occupants spending money in the local area. With this taken in to account, it is considered that the identified harm would be outweighed by the public benefits of the proposal, and in this respect no objection is raised to the proposal.

- 7.09 Subsequent to this, if it is the case that the outbuilding on the western boundary of the proposal site is a non-designated heritage asset, then it follows that the proposal would again cause less than substantial harm to this NDHA, and again this harm would be outweighed by the public benefits of the proposal (in accordance with NPPF paragraph 209).
- 7.10 The KCC Archaeological Officer raises no objection and confirms that the proposal site lies within the complex of Lewis Court, a 16<sup>th</sup> century farm and manorial site; and that remains associated with post medieval or earlier activity may survive on the site. On this basis, a pre-commencement condition has been recommended for archaeological field evaluation works; further archaeological investigation; and for a programme of post excavation assessment and publication. This is considered reasonable, to ensure features of archaeological interest are properly examined, recorded, reported and disseminated. The agent has also agreed to the imposition of the condition.
- 7.11 With everything taken into account, it is considered that the proposal would be in accordance with Local Plan policies SP18 and DM4; Boughton Monchelsea Neighbourhood Plan policy PWP3; and the aims of the NPPF.

*Residential amenity*

- 7.12 Given the proposal's layout, scale and the separation distances involved, the new dwellings would not have an unacceptable impact upon any neighbour when trying to enjoy their own property (both internally and externally), in terms of light, outlook and being overbearing. This assessment includes those properties yet to be built to the immediate south of the application site. The general comings and goings associated to two new dwellings is also unlikely to have an adverse impact upon the amenity of any neighbour when they are trying to enjoy their own property, in terms of general noise and disturbance. Acceptable levels of privacy at ground floor level can be secured through the use of appropriate boundary treatments.
- 7.13 Except for the north-facing window on plot 2 that serves an ensuite (that is to be obscure glazed), the only other first floor windows that face north would be a bedroom window on plot 1 and a bedroom window on plot 2. Plot 1's bedroom window would be more than 14m from the boundary shared with Tudor Cottage, with Plot 2's bedroom window being more than 21m from this shared boundary; they would both not directly face onto any first floor bedroom window of Tudor Cottage; and existing mature boundary planting would continue to provide some screening, along with the existing close boarded fencing. Furthermore, the proposal would not result in unacceptable overlooking of the garden area for Tudor Cottage. With this all considered, the proposal would not have an unacceptable impact upon the privacy of this neighbour (both internally and externally).
- 7.14 Given the separation distances between the proposed dwellings and the adjacent neighbour known as 'Cleves' together with the orientation of the proposal and the existing mature boundary planting, it is considered that the proposal would not have an unacceptable impact upon the privacy of this neighbour (including their garden area that is immediate to the house).

With the new dwellings being more than 29m away from Lewis Court, with this existing property retaining a good sized garden, it is considered that the privacy of those occupying Lewis Court would not be adversely impacted upon; and no other property (including those yet to be built), would be harmfully impacted upon in terms of privacy.

- 7.15 With regards to the new dwelling to the immediate south of the site, it has no first floor openings serving habitable rooms in its northern flank that would be impacted upon. On balance, it is also considered that the first floor bedroom window on plot 2 that faces southwards would not result in an unacceptable loss of privacy to the garden of this neighbour, when considering the separation distance, the use of appropriate hard boundary treatments, and the existing landscaping that is to be retained. There is also an element of buyer beware here, as the properties are yet to be built.

- 7.16 To safeguard the privacy of future occupants on the site, conditions will be imposed to ensure all first floor bathroom/ensuite windows are obscure glazed and fixed shut, along with the secondary bedroom window to the main bedroom for plot 1 that overlooks the garden are of plot 2. In all other respects, future occupants of the site would benefit from acceptable living conditions, both internally and externally.
- 7.17 On this basis the proposal is not objectionable in residential amenity terms, in accordance with Local Plan policy DM1.

Highway safety implications

- 7.18 Paragraph 115 of the NPPF 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.*
- 7.19 From the site entrance, there is quick access to pavements that lead both into the village centre (westwards), with its basic facilities, bus stops, and beyond towards a number of schools; and eastwards, along Green Lane close to the junction with Gandy's Lane and Old Tree Lane (and bus stops).
- 7.20 The stretch of road where the site access is, has a 30mph speed limit; there are existing traffic controls in place along Green Lane; and there is reasonable visibility from the site access in both directions. There have also been no recorded traffic accidents at or near the site's access over the last 10yrs ([www.crashmap.co.uk](http://www.crashmap.co.uk)). With this considered, the use of the existing access for two additional dwellings is not considered to be a harmful intensification of this access in highway safety terms.
- 7.21 The parking provision accords with Local Plan policy, with the shown car barn considered to be good design; and vehicles are able to turn and leave the site in a forward gear. In terms of refuse collection, the agent has confirmed that this will be the same for the new dwellings already approved in the proximity of the proposal site, where future occupants will take bins to a collection point near the entrance for roadside collection; and the plans also show a day to day storage area for bins close to the dwellings. This arrangement is not considered to be objectionable. A condition will also be imposed to secure appropriate bicycle storage for each plot.
- 7.22 With everything considered, the development would not have a severe impact on the road network and would not be unacceptable impact in highway safety terms, in accordance with Local Plan policy DM1; Boughton Monchelsea Neighbourhood Plan policy PWP13; and NPPF paragraph 115.

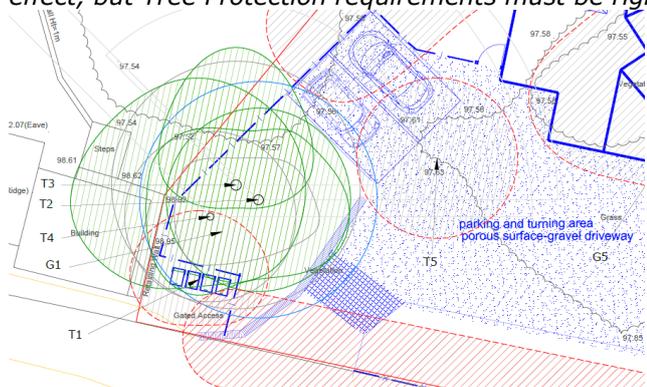
Biodiversity implications

- 7.23 The submission is accompanied by a Preliminary Ecological Appraisal and Reptile Survey Report. The KCC Biodiversity Officer has reviewed the submission and has advised that sufficient ecological information has been provided. Furthermore, KCC refer to section 40 of the Natural Environment & Rural Communities Act (2006) and the NPPF, where it is set out that biodiversity should be maintained and enhanced through planning system. Further to this, one of the principles of the NPPF (para 186) is that: Opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. On this basis, KCC have advised conditions for ecological mitigation and enhancements. Conditions like these (including a landscaping condition), are considered reasonable in order to safeguard protected species/habitats and biodiversity enhancements. At this time, it is not a legislative requirement to demonstrate Biodiversity Net Gain.
- 7.24 On the basis of the specialist advice, it is accepted that the submission has demonstrated that protected species would not be adversely impacted upon as a result of the proposed development, subject to the imposition of relevant conditions. The proposal would therefore be in accordance with Local Plan policies DM1 and DM3 in ecological terms.

Arboricultural implications

7.25 The submission is accompanied by an Arboricultural Impact Assessment, Method Statement and Tree Protection Plan document. The Council’s Tree Officer has reviewed the submission and have raised no objection to the proposal in arboricultural terms; and in summary they have commented as follows:

*It is noted all proposed tree removals are Cat C or Cat U trees - trees of low grade or poor quality. Justification for removal of these trees in submission is reasonable; and no Cat B trees, that would often make grade for TPO, are proposed to be removed to facilitate development. Use of engineered surface for bin store is welcomed and will reduce potential for compaction in area. Minor RPA encroachment for T2 and T3 are likely to have limited effect, but Tree Protection requirements must be rigidly adhered to prevent encroachment of works area:*



*Conclusion: From tree related viewpoint, proposal appears to have minimal impact on trees in development area. Provided recommendations in Method Statement are carried out, there is likely to be little negative effect on retained trees and this should be conditioned to any consent that is granted.*

7.26 To safeguard the longevity of existing trees to be retained and subsequently to safeguard the character and appearance of the development, a condition will be duly imposed to ensure the development is carried out in accordance with the submitted Arboricultural Impact Assessment, Method Statement and Tree Protection Plan document.

Other matters

7.27 The Environmental Protection Team have raised an objection to proposal in terms of: Noise, air quality, contaminated land, radon; and they have not recommended any conditions. External lighting will be controlled in the interests of visual and residential amenity. In accordance with Local Plan policy and in the interests of sustainability and air quality, a suitable condition will be imposed to secure renewable energies are incorporated into the scheme. The KCC Minerals Safeguarding Team confirm they have no land-won minerals or waste management capacity safeguarding objections or comments to make regarding this matter. There are no flood risk objections to the proposal; and the development will utilise a soakaway for surface water drainage and foul sewage will be disposed of via mains sewer. These arrangements are not objectionable and no further details are required in these respects.

7.28 The issues raised by Boughton Monchelsea Parish Council and local residents have been considered in the assessment of this application.

7.29 Due regard has also been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010; and it is considered that the development would not undermine the objectives of the Duty. The development is CIL liable. The Council adopted a Community Infrastructure Levy in October 2017 and began charging on all CIL liable applications approved on and from 1<sup>st</sup> 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 if planning permission is granted or shortly after. The proposal is not EIA development.

## 8.0 CONCLUSION

- 8.01 At this time, the 2017 adopted Local Plan remains primary and its policies have been given full weight in the assessment of this application. On this basis, the principle for new housing in this location is acceptable and for the reasons set out above, the proposal would accord with all relevant Local Plan policies. In particular, the proposal would accord with policy DM11, in that it would not result in significant harm to the character and appearance of the area; there are no residential amenity objections; the site's access is acceptable in highway safety terms; and there would be no significant increase in noise or disturbance from traffic gaining access to the development.
- 8.02 The proposal will also accord with the Boughton Monchelsea Neighbourhood Plan. For example, the proposal is a positive and appropriate provision of windfall housing within the village boundary of Boughton Monchelsea for the purposes of the adopted Local Plan, in accordance with policy PWP4; the proposal is located to the north of Heath Road and would not have a significant adverse impact upon landscape or infrastructure, in accordance with policy RH1; and in accordance with policy RH6, the proposal would be acceptable in terms of its design. The proposal would also accord with policies PWP3 and PWP13, amongst other policies.
- 8.03 For the reasons set out, the proposal is therefore acceptable with regard to the relevant provisions of the Development Plan, the aims of the NPPF, and all other material considerations such as are relevant. A recommendation of approval is made on this basis.

- 9.0 RECOMMENDATION - GRANT PLANNING PERMISSION subject to 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 approved shall be carried out in accordance with the following approved plans/documents: DHA-16666-01A; 02A; 10; 11A; 12; 13; 14; 15; and 16; and Arboricultural Impact Assessment, Method Statement and Tree Protection Plan document, including drawing references: PJC/6063/22/A; PJC/6063/22/B; and PJC/6063/22/C (by PJC, dated: 21<sup>st</sup> Aug 2023); Preliminary Ecological Appraisal (by PJC, ref: 4882E/22/01, dated 1<sup>st</sup> Nov 2022); and Reptile Survey Report (by PJC, ref: 4953E/22/01, dated: 1<sup>st</sup> Nov 2022).

Reason: To clarify which plans have been approved and in the interests of proper planning.

3. Prior to the commencement of development the applicant, or their agents or successors in title, will secure:

- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
- (ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; and
- (iii) programme of post excavation assessment and publication.

Reason: To ensure features of archaeological interest are properly examined, recorded, reported and disseminated.

4. In accordance with the submitted details and Prior to the commencement of the development above damp-proof course level, written details of the materials to be used in the construction of the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the local planning authority. These details shall be:

- (i) Ragstone plinth to plot 1;
- (ii) White timber weatherboarding for both dwellings;
- (iii) Multi-stock brick for both dwellings; and
- (iv) Roof finishes of either natural grey slate and/or plain clay roof tiles.

The development shall be constructed using the approved materials and shall be maintained as such thereafter.

Reason: To ensure a high quality appearance to the development that is in the proximity of listed buildings.

5. Prior to the commencement of the development above damp-proof course level, details of the following matters shall be submitted to and approved in writing by the local planning authority:

- (i) New external fenestration joinery in the form of large-scale drawings, to be white heritage style timber sash windows and the proposed conservation rooflight (which shall be flush fitting); and
- (ii) New external joinery of the bargeboards for both dwellings.

The development shall be carried out in accordance with approved details and shall be maintained as such thereafter.

Reason: To ensure a high quality appearance to development that is in the proximity of listed buildings.

6. In accordance with the submitted plans and prior to the commencement of the development above damp-proof course level, details of a scheme of hard and soft landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and longterm management, which shall be for a minimum of 10 years, shall be submitted to and approved in writing by the local planning authority. The landscape scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- (i) A planting schedule (including location, planting species, amounts and sizes) for application site;
- (ii) Retention of existing trees (as shown on submitted drawing refs: DHA/16666/10 and PJC/6063/22/B in submitted Arboricultural Report);
- (iii) New 100% mixed native hedgerows along western boundary of site and along garden divide between plots 1 and 2;
- (iv) Details of wildflower seed mix for meadow grassland (as shown on submitted drawing ref: DHA/16666/10); and
- (v) Parking and turning areas to be of porous surface gravel.

Only non-plastic plant guards shall be used and no Sycamore trees shall be planted. The implementation and longterm management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas. The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the development and surrounding area.

7. The approved landscaping associated with the individual dwellings shall be in place at the end of the first planting and seeding season following completion of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following completion of the final unit. Any trees or plants, which, until a period of 10 years from the completion of the development has passed 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: To safeguard the character and appearance of the development and surrounding area.

8. Prior to commencement of the development above damp-proof course level, details of ecological enhancements shall be submitted to and approved in writing by the local planning authority; and these shall be:

- (i) Details of integrated enhancements into the design and fabric of each dwelling hereby approved, to include bat brick(s) and/or bat tube(s), bird bricks and bee bricks;
- (ii) Details of dead wood habitat piles; and
- (iii) Details of how small mammals will be able to safely pass through application site.

The development shall be implemented in accordance with the approved details prior to the first occupation of any dwelling and all features shall be maintained as such thereafter.

Reason: In the interests of biodiversity enhancement.

9. From the commencement of development hereby approved (including site clearance), all mitigation for protected/notable species and habitats shall be carried out in accordance with the details contained within Section 5 of the submitted Preliminary Ecological Appraisal (By PJC, dated: 1<sup>st</sup> Nov 2022); and Section 4 of the submitted Reptile Survey Report (By PJC, dated: 1<sup>st</sup> Nov 2022).

Reason: In the interests of safeguarding protected/notable species and habitats.

10. Prior to the commencement of the development above damp-proof course level, details of how decentralised and renewable or low-carbon sources of energy will be incorporated into each dwelling hereby permitted shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed and operational prior to the first occupation of the relevant dwelling and shall be maintained as such thereafter.

Reason: To ensure an energy efficient form of development.

11. Prior to the occupation of the relevant dwelling, all of its first floor windows serving an ensuite and/or bathroom shall be obscure glazed and be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level. All of the obscure glazed windows shall be to not less than the equivalent of Pilkington Glass Privacy Level 3 and this shall be maintained as such thereafter.

Reason: In the interests of residential amenity.

12. Prior to the occupation of the dwelling on plot 1, the secondary window of the main bedroom (facing eastwards), shall be obscure glazed and be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level. The obscure glazed window shall be to not less than the equivalent of Pilkington Glass Privacy Level 3 and this shall be maintained as such thereafter.

Reason: In the interests of residential amenity.

13. Prior to the first occupation of any dwelling hereby approved the hard boundary treatments, as shown on the submitted drawings, shall be entirely in place shall be maintained as such thereafter.

Reason: To ensure a high quality appearance to the development that is in the proximity of listed buildings; and in the interests of residential amenity.

14. The development hereby approved shall be carried out in strict accordance with the submitted Arboricultural Impact Assessment, Method Statement and Tree Protection Plan document, including drawing references: PJC/6063/22/A; PJC/6063/22/B; and PJC/6063/22/C (by PJC, dated: 21<sup>st</sup> Aug 2023).

Reason: To safeguard the longevity of existing trees to be retained and subsequently to safeguard the character and appearance of the development.

15. No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are submitted to and approved in writing by the local planning authority. Any details to be submitted shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type;

mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. Any details to be submitted shall also show a lighting design strategy that accords with the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night' document. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interest of visual and residential amenity and to safeguard protected species.

16. The approved details of the parking (including car ports/barns) and turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England ) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

17. No dwelling hereby approved shall be occupied until secure and useable bicycle storage has been provided on the site; and this bicycle storage shall be maintained as such thereafter.

Reason: In the interests of sustainable development.

18. The refuse storage, as shown on the submitted plans, shall be in place prior to the first occupation of any dwelling hereby approved and it shall be maintained as such thereafter.

Reason: To provide adequate refuse storage arrangements.

19. Notwithstanding what has been approved on the submitted plans and notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development within Schedule 2, Part 1 Classes A, B, C and D; and Schedule 2, Part 2, Class A, shall be carried out.

Reason: To ensure a high quality appearance to the development that is in the proximity of listed buildings.

**Informatives:**

1. The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

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 – 18th JANUARY 2024**

### **APPEAL DECISIONS:**

- 1. 23/502526/FULL      **Erection of a first-floor extension over existing ground floor to create bedroom.****

**APPEAL:** ALLOWED

38 Olivine Close  
Walderslade  
Chatham  
Kent  
ME5 9NQ

(Delegated)

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- 2. 22/502934/FULL      **Demolition of existing structure and conversion of existing storage barn to residential dwelling with associated parking, landscaping and private amenity space (resubmission of 21/504914/FULL).****

**APPEAL:** DISMISSED

Land Adjoining Little Dane  
Thurnham Lane  
Thurnham  
Maidstone  
Kent  
ME14 3LG

(Delegated)

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- 3. 22/502233/FULL      **Creation of a new vehicular access.****

**APPEAL:** DISMISSED

Land South Of South Cottage  
High Street  
Staplehurst  
Kent  
TN12 0JY

(Delegated)

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- 4. 23/501266/FULL Loft Conversion incorporating dormer windows to rear and rooflight to front including replacing weatherboard cladding.**

**APPEAL:** DISMISSED

35 Bodsham Crescent  
Bearsted  
Maidstone  
Kent  
ME15 8NL

(Delegated)

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- 5. 22/500327/FULL Demolition of existing agricultural building and erection of 1no. dwelling (Resubmission of 21/504732/FULL).**

**APPEAL:** ALLOWED

Land Adjacent To Oakside Barn  
Tattlebury Lane  
Headcorn  
Kent  
TN27 9JU

(Delegated)

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- 6. 22/500517/LAWPRO Lawful Development Certificate (Proposed) for the stationing of 10(no) caravans for holiday use.**

**APPEAL:** ALLOWED

**COSTS:** PARTIALLY AWARDED

Little Venice Country Park And Marina  
Hampstead Lane  
Yalding  
Kent  
ME18 6HH

(Delegated)

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