

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 1 July 2010
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Lusty (Chairman), Ash, Chittenden,
English, Harwood, Hinder, Nelson-
Gracie, Paine, Paterson,
Mrs Robertson, Ross, Thick and
Mrs Wilson

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - Monday 5 July 2010

Continued Over/:

Issued on 23 June 2010

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEBBIE SNOOK on 01622 602030**. To find out more about the work of the Committee, please visit www.maidstone.gov.uk

Alison Broom

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

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 10 June 2010 1 - 7
11. Presentation of Petitions (if any)
12. Report of the Head of Development Management - Deferred Items 8
13. MA/09/2004 - Cherry-Tree Caravan Site, Church Hill, Boughton Monchelsea, Maidstone 9 - 25
14. MA/10/0409 - 34 Stanley Close, Staplehurst, Tonbridge 26 - 36
15. MA/10/0491 - 1-11 Phoenix Park, Parkwood Industrial Estate, Coldred Road, Boughton Monchelsea, Maidstone 37 - 42
16. MA/10/0538 - Weavers Cottage, Copper Lane, Marden, Tonbridge 43 - 50
17. MA/10/0670 - Land Adj to No. 3, Shingle Barn Farm Cottages, Smiths Hill, West Farleigh, Maidstone 51 - 56
18. MA/10/0691 - Town Centre Redevelopment, High Street & King Street, Maidstone 57 - 72
19. MA/10/0692 - Town Centre Redevelopment, High Street, Maidstone 73 - 81
20. MA/10/0883 - MBC Museum, St Faith's Street, Maidstone 82 - 86
21. Report of the Head of Development Management - Appeal Decisions 87 - 89
22. Report of the Head of Spatial Planning - Tree Preservation Order No. 3 of 2010 - Trees on Land at North Lodge, 57 Heathfield Road, Maidstone 90 - 97
23. Report of the Head of Spatial Planning - TA/0052/10 - Application to Fell One Beech Tree and Treat One Stump Subject to Tree Preservation Order No. 2 of 1997 and Situated Adjacent to Wayside, Ashford Road, Harrietsham 98 - 114
24. Chairman's Announcements

25. Update on Matters Referred to the Cabinet Members for Environment/Regeneration

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.

Agenda Item 10

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 10 JUNE 2010

Present: **Councillor Lusty (Chairman) and
Councillors Butler, English, Garland, Harwood,
Hinder, Nelson-Gracie, Paine, Paterson, Mrs Smith,
Thick, Vizzard and Mrs Wilson**

Also Present: **Councillors Horne and Sellar**

24. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillors Ash, Chittenden, Mrs Robertson and Ross.

25. **NOTIFICATION OF SUBSTITUTE MEMBERS**

The following Substitute Members were noted:-

Councillor Butler for Councillor Ross
Councillor Garland for Councillor Ash
Councillor Mrs Smith for Councillor Mrs Robertson
Councillor Vizzard for Councillor Chittenden

26. **NOTIFICATION OF VISITING MEMBERS**

Councillor Horne indicated his wish to speak on the report of the Development Control Manager relating to application MA/10/0140.

Councillor Sellar indicated his wish to speak on the report of the Development Control Manager relating to application MA/09/1784.

27. **ITEMS WITHDRAWN FROM THE AGENDA**

There were none.

28. **URGENT ITEMS**

Update Report

The Chairman stated that, in his opinion, the update report of the Development Control Manager should be taken as an urgent item because it contained further information relating to the applications to be considered at the meeting.

Reference from the Cabinet Member for Environment – Parking in Staplehurst

The Chairman stated that, in his opinion, the reference from the Cabinet Member for Environment relating to parking in Staplehurst should be taken as an urgent item in view of the length of time until the next meeting.

29. DISCLOSURES BY MEMBERS AND OFFICERS

Councillors Harwood and Hinder disclosed personal interests in the report of the Development Control Manager relating to application MA/09/1784. They stated that they were Members of Boxley Parish Council, but they had not participated in the Parish Council's discussions on the application and intended to speak and vote when it was considered.

30. EXEMPT ITEMS

RESOLVED: That the item on Part II of the agenda be taken in public but the information contained therein should remain private.

31. MINUTES OF THE MEETING HELD ON 20 MAY 2010

RESOLVED: That the Minutes of the meeting held on 20 May 2010 be approved as a correct record and signed.

32. PRESENTATION OF PETITIONS

It was noted that a petition would be presented objecting to application MA/10/0140.

See Minute 36 below.

33. DEFERRED ITEMS

- (1) MA/08/1766 - RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE TO CARAVAN SITE TO PROVIDE GYPSY ACCOMMODATION WITH 4 PLOTS, INCLUDING 4 MOBILE HOMES AND 6 TOURING CARAVANS AND ASSOCIATED WORKS (INCLUDING HARDSTANDING, FENCING, UTILITY BUILDINGS AND CESS POOL) AND KEEPING OF HORSES - FIELD KNOWN AS WHEATGRATTEN, LENHAM FORSTAL ROAD, LENHAM

The Development Control Manager advised the Committee that he was still awaiting the survey information requested in respect of this application.

- (2) MA/09/1784 - OUTLINE PLANNING PERMISSION FOR THE ERECTION OF A NEW HOTEL WITH ACCESS TO BE CONSIDERED AT THIS STAGE AND ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION - ECLIPSE PARK, SITTINGBOURNE ROAD, MAIDSTONE

See Minute 34 below

- (3) MA/09/2043 - ERECTION OF A REPLACEMENT DWELLING WITH DOUBLE GARAGE AND CREATION OF A NEW DRIVEWAY (RE-SUBMISSION OF MA/09/1298) - STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM, MAIDSTONE

The Development Control Manager advised the Committee that he was still awaiting the survey information requested in respect of this application.

34. MA/09/1784 - OUTLINE PLANNING PERMISSION FOR THE ERECTION OF A NEW HOTEL WITH ACCESS TO BE CONSIDERED AT THIS STAGE AND ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION - ECLIPSE PARK, SITTINGBOURNE ROAD, MAIDSTONE

All Members started that they had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

Mr Blythin, for the applicant, and Councillor Sellar addressed the meeting.

RESOLVED: That subject to the referral of the application to the Government Office for the South East and the subsequent expiry of the formal referral period and the receipt of no Direction preventing the grant of planning permission, the Development Control Manager be given delegated powers to grant outline permission subject to the conditions and informatives set out in the report, as amended by the urgent update report, and the additional condition set out in the urgent update report with the amendment of condition 11 (formerly numbered 10) and an additional informative as follows:-

Condition 11 (formerly 10) (amended)

The details submitted pursuant to condition 1, in conjunction with the details submitted pursuant to condition 10 above, shall show:-

- (i) A building with a maximum height of 15m above the adjacent M20 motorway embankment and 12.5m to the highest part of the accommodation levels above the motorway embankment as indicated on drawing no. DHA/6806/03/A.
- (ii) A building with a maximum height of 21.8m above proposed external ground levels with the accommodation levels being no higher than 18.6m above proposed external ground levels as indicated on drawing no. DHA/6806/03/A.
- (iii) A building orientated as shown on drawing nos. DHA/0686/02revA and 279/PL/200A.

- (iv) A building with accommodation levels being no greater than 16m in width as shown on drawing nos. DHA/0686/02revA and 279/PL/200A and comprising no more than 150 bedrooms.
- (v) The proposed building not breaching the crest of the scarp slope of the North Downs Ridge, when viewed from the central reservation of the A249 Bearsted Road just east of the Chiltern Hundreds PH roundabout at a height of approximately 1.78m as shown on the location plan and photographic image appended to the decision notice.

Reason: To ensure a satisfactory visual impact to the development and to reduce the visual impact on the Kent Downs AONB pursuant to policies CC6 and C3 of the South East Plan 2009 and to accord with the parameters set out in the application.

Additional Informative

You are advised that any timber cladding used externally on the building should be of a high quality and be pre-treated to avoid fading.

Voting: 10 – For 3 – Against 0 – Abstentions

Note: Councillors Harwood and Paterson requested that their dissent from this decision be recorded.

35. MA/09/2260 - AN APPLICATION TO VARY CONDITION 8 OF MA/09/1535 TO READ:- THE 17 AFFORDABLE HOUSING UNITS SHALL ACHIEVE LEVEL 3 OF THE CODE FOR SUSTAINABLE HOMES. NO AFFORDABLE DWELLING SHALL BE OCCUPIED UNTIL A DESIGN STAGE CERTIFICATE HAS BEEN ISSUED FOR IT CERTIFYING THAT THE APPROPRIATE CODE LEVEL 3 HAS BEEN ACHIEVED. THE REMAINING "OPEN MARKET" DWELLINGS SHALL ACHIEVE LEVEL 2 OF THE CODE FOR SUSTAINABLE HOMES AND NO "OPEN MARKET" DWELLING SHALL BE OCCUPIED UNTIL A DESIGN STAGE CERTIFICATE HAS BEEN ISSUED FOR IT CERTIFYING THAT THE APPROPRIATE CODE LEVEL 2 HAS BEEN ACHIEVED – FORMER LEONARD GOULD WORKS, PICKERING STREET, MAIDSTONE

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

RESOLVED: That permission be granted subject to the condition and informative set out in the report.

Voting: 11 – For 0 – Against 2 – Abstentions

36. MA/10/0140 - ERECTION OF A TWO STOREY REAR EXTENSION TO EXISTING OFFICE BUILDING INCLUDING RECONFIGURED SITE LAYOUT, PARKING AND LANDSCAPING - CORBIN BUSINESS PARK, CARING LANE, BEARSTED

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

Ms Duncan presented a petition objecting to the application.

Councillor Waite of Thurnham Parish Council (against), Mr Smith, for the applicants, and Councillor Horne (against) addressed the meeting.

RESOLVED: That subject to any new representations received as a result of outstanding statutory advertisements AND to the prior completion of a Section 106 Legal Agreement in such terms as the Head of Legal Services may advise to ensure that the vocational training opportunities to be provided at the site are utilised by those studying at Maidstone schools and Kent based universities, the Development Control Manager be given delegated powers to grant permission subject to the conditions and informatives set out in the report, as amended by the urgent update report, and the additional conditions set out in the urgent update report with the amendment of conditions 3, 7 and 9 and an additional condition and informatives as follows:-

Condition 3 (amended)

Notwithstanding drawing no. 1670/01 RevA received on 4 May 2010 the development shall not commence until an amended landscaping scheme has been submitted to and approved in writing by the Local Planning Authority reflecting the reduced car parking provision required under condition 12 and showing the extent, profile and planting of the proposed bund adjacent to Caring Lane.

Reason: In the interests of visual amenity and biodiversity in accordance with PPS9 and policy ENV34 of the Maidstone Borough-Wide Local Plan 2000.

Condition 7 (amended)

The building hereby permitted shall only be used for the use of digital media purposes.

Reason: The use hereby permitted would not normally be allowed and permission has been granted because of the exceptional need for this type of employment.

Condition 9 (amended)

The development shall not commence until details of the proposed means of foul and surface water drainage, which shall include SUDS incorporating significant elements of natural filtration, have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent harm and pollution to the environment in accordance with PPS23 and in the interests of biodiversity pursuant to policy NRM5 of the South East Plan 2009 and advice in PPS9.

Additional Condition

The building hereby permitted shall achieve a minimum BREEAM for Offices rating of 'Very Good'. The building shall not be occupied until a final certificate has been issued for it certifying that a minimum BREEAM for Offices rating of 'Very Good' has been achieved.

Reason: To ensure a sustainable and energy efficient form of development pursuant to policy CC4 of the South East Plan 2009.

Additional Informatives

No further development will be permitted in front of the existing building on the site.

Suitable natural features required by condition 9 could include the use of swales and gullies.

Voting: 7 – For 4 – Against 2 – Abstentions

Note: Councillor Harwood requested that his dissent from this decision be recorded.

37. MA/09/1217 - CONSTRUCTION OF NEW ROOF INCLUDING 3 DORMERS TO REAR AND 1 DORMER TO FRONT AND INSERTION OF A FIRST FLOOR WINDOW TO REAR ELEVATION - 45 BRAUNSTONE DRIVE, ALLINGTON, MAIDSTONE

The Committee considered the report of the Development Control Manager.

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

Voting: 13 – For 0 – Against 0 – Abstentions

38. MA/10/0669 - ERECTION OF A DORMER TO THE WEST ELEVATION AND ADDITION OF A WINDOW TO THE EAST ELEVATION - OAK HOUSE, COUCHMAN GREEN LANE, STAPLEHURST, TONBRIDGE

The Committee considered the report of the Development Control Manager.

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

Voting: 13 – For 0 – Against 0 – Abstentions

39. APPEAL DECISIONS

The Committee considered the report of the Development Control Manager setting out details of appeal decisions that had been received since the last meeting.

RESOLVED: That the report be noted.

40. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that he wished to thank the Development Control Manager and his Team for facilitating an extremely interesting planning training session earlier during the week. The Head of Legal Services advised the Committee that further training would include probity in planning.

41. UPDATE ON MATTERS REFERRED TO THE CABINET MEMBERS FOR ENVIRONMENT/REGENERATION

The Committee considered the response of the Cabinet Member for Environment to its request that he undertake a review of the parking arrangements in the Winch's Garth/Market Street area of Staplehurst in consultation with Ward Members and the Parish Council. It was noted that the parking problems in these roads had been the subject of considerable discussion with Ward Members, the Parish Council and Kent Highways in the past. The conclusion reached was still relevant today in that the only way to ease the current problems would be to provide off-street parking. Although a scheme had been drawn up to utilise land in the front gardens of Winch's Garth, Golding Homes had decided not to proceed with the extra parking due to limited funding. In the circumstances, the Cabinet Member had decided not to undertake a review, but he had forwarded details of the Committee's request and his response to Golding Homes in order that it might consider reviewing its original decision.

RESOLVED: That the position be noted.

42. DURATION OF MEETING

6.00 p.m. to 8.10 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

1 JULY 2010

REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT

1. DEFERRED ITEMS

1.1. 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. The applications may be reported back to the Committee for determination.

1.2. Description of Application Date Deferred

- (1) MA/08/1766 - RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE TO CARAVAN SITE TO PROVIDE GYPSY ACCOMMODATION WITH 4 PLOTS, INCLUDING 4 MOBILE HOMES AND 6 TOURING CARAVANS AND ASSOCIATED WORKS (INCLUDING HARDSTANDING, FENCING, UTILITY BUILDINGS AND CESS POOL) AND KEEPING OF HORSES - FIELD KNOWN AS WHEATGRATTEN, LENHAM FORSTAL ROAD, LENHAM 18 March 2010

Deferred to enable the Officers to:-

- Seek a noise assessment and any necessary mitigation measures.
- Seek an ecological survey in relation to the adjacent pond in the south west corner of the site and any necessary mitigation measures.
- Investigate the agricultural grading of the land.

- (2) MA/09/2043 - ERECTION OF A REPLACEMENT DWELLING WITH DOUBLE GARAGE AND CREATION OF A NEW DRIVEWAY (RE-SUBMISSION OF MA/09/1298) - STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM, MAIDSTONE 18 March 2010

Deferred to enable the Officers to:-

- Seek an ecological survey with any necessary mitigation measures.
- Seek a more comprehensive and detailed landscaping scheme to enhance the setting of the site.
- Discuss with the applicant the possibility of improving the design of the replacement dwelling.

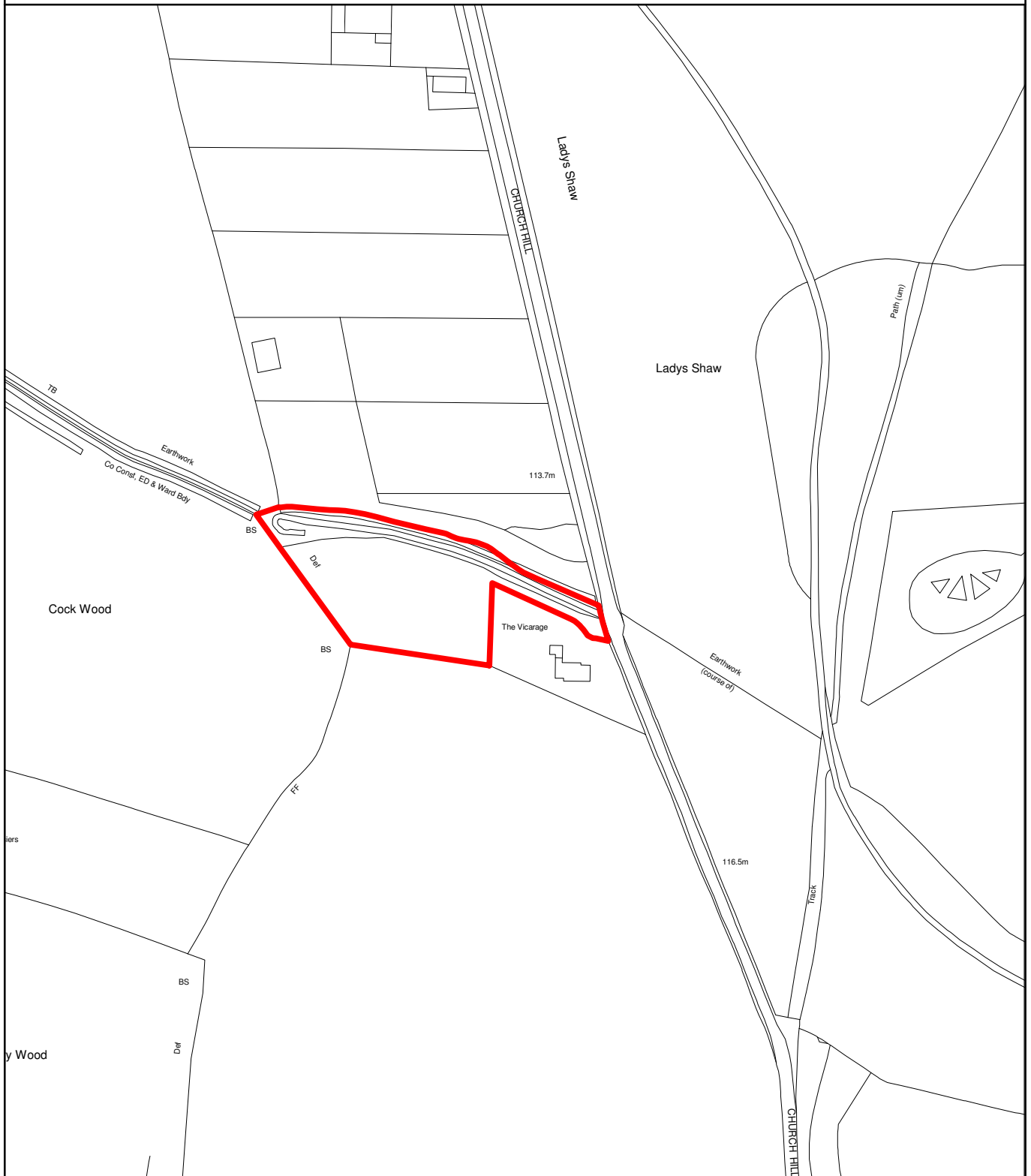
Agenda Item 13

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/2004

GRID REF: TQ7650

CHERRY-TREE CARAVAN SITE,
CHURCH HILL, BOUGHTON MONCHELSEA.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2010. Scale 1:2500



Rob Jarman
Head of Development Management

APPLICATION: MA/09/2004 Date: 2 November 2009 Received: 21 December 2009

APPLICANT: Mr & Mrs H Boswell

LOCATION: CHERRY-TREE CARAVAN SITE, CHURCH HILL, BOUGHTON MONCHELSEA, MAIDSTONE, KENT, ME17 4BU

PARISH: Boughton Monchelsea, Linton

PROPOSAL: Planning permission for change of use of land to holiday caravan site for up to 10no. static caravans including access, hardstanding, cesspool, reception building, boundary treatment and security barrier in accordance with plans numbered CTC4ABC received on the 17 June 2010; design and access statement; transport and noise statement, cesspool details received on 3 November 2009; arboricultural report, received on 21 December 2009 and ecological report, received on 15 April 2010.

AGENDA DATE: 1st July 2010

CASE OFFICER: Amanda Marks

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to views expressed by the Parish Council.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ED20

South East Plan 2009: TSR5, CS12, C4, RE3, CC6

Government Policy: PPS1, DCLG: Good Practice Guide on Planning for Tourism, PPS7, PPS13

1. HISTORY

MA/02/0255 Cherry Tree Caravan Site, Church lane, Boughton Monchelsea. Change of use of site to open air caravan parking for 50 caravans Approved 19/8/02 subject to a legal agreement preventing implementation of planning permission MA/96/1611.

MA/96/1611 Cherry Tree Caravan Site, Church lane, Boughton Monchelsea. (Land to west of vicarage) – Change of use of land for garaging 20 caravans. Allowed at appeal 13/11/00.

- 2.1 As can be seen from the above, this application site has already been subject to two planning applications, for the siting of caravans (albeit for storage purposes). These previous applications were for the same site, utilising the same access point onto Church Hill.

2. CONSULTATIONS

3.1 Boughton Monchelsea Parish Council would like to see the application REFUSED because:

1. The development, if permitted, will set a precedent for other forms of development on the south side of the B2163. The Parish Council wishes to see the planning authority strongly resist any form of new build or inappropriate development on the south side of Heath Road. Heath Road should remain a natural boundary of built development within the open countryside.
1. The proposal would result in unjustified residential development within open countryside, contrary to Policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and Policies CC1, CC6, and C4 of the South East Plan 2009.
2. The proposed development is outside the defined boundary of the village and would be contrary to Policy H27 of the Maidstone Borough Wide Local Plan 2000 and CC1, CC6, and C4 of the South East Plan 2009.
3. The proposed development would have an adverse effect on the amenities of the occupants of The Vicarage.
4. The proposed development would introduce unjustified additional traffic onto a rural lane which will affect its character contrary to Policy NRM10 of the South East Plan 2009.
5. The site borders the remains of first century BC Belgic earth works. The setting of the earthworks will be damaged by the development, contrary to Policy BE6 of the South East Plan 2009.

3.2 Environment Agency: Raise no objection with the following advice: an acceptable method of foul drainage would be a watertight sealed cesspool; the proposed soakaways are acceptable subject to no discharge into any of the following - contaminated land; directly into groundwater or made ground.

3.3 KCC Archeology: no objections subject to a condition on site fencing to protect the earthwork on the northern boundary.

3.4 Southern Water: No objections.

3.5 MBC: Landscape: 'The tree report accurately describes the trees on the northern boundary as being old. Many of these are also subject to a Tree Preservation Order. The woodland to the west of the site has been described in

less detail, but is coppiced chestnut that is younger, but still well established and, in my opinion, important both in its landscape contribution, but also in its function as a wildlife corridor, linking the TPO'd woodland to the north with the woodland block and hedgerows further south. Continuous woodland and hedgerow cover in this area is also likely to be an important corridor between two nearby blocks of ancient woodland.

I am satisfied that the report identifies the issues that arise where there is a conflict between the proposal and potential damage to retained trees. These are highlighted in section 10 (foundations) and section 13 (services). I also raise no objection to the proposed tree removals and management works detailed in the tree report on arboricultural grounds.

However, although suggestions are made in the tree report on how safeguarding of retained trees could be achieved, there is insufficient detail to demonstrate that damage to trees will be avoided or minimised. I still have some minor concerns about how construction of foundations, installation of services along the existing entrance to the site and installation of caravans will take place without damage to trees. In principle, however, I consider that the proposal can be achieved without detriment to retained trees through the use of appropriate conditions.

I would like to see conditions attached requiring more detailed information in the form of an arboricultural method statement, to be submitted and approved prior to works commencing on site.

My other concerns relate to the future use of the site and how this is likely to impact on the surrounding area. The proposal indicates that the site will be used for leisure/holiday purposes, and is therefore likely to have visiting families with dogs and children. It is reasonable to assume that the trees to the north and woodland to the west will be used for informal recreation unless their use as part of the site is controlled in some way.

The trees (and earthbank) to the north are sensitive due to their age and could be easily damaged. Similarly, the woodland to the west, although not in the same ownership as the site, could be damaged by inappropriate users of the site. For this reason, I consider that access should be prevented to these areas, and that this should be required by a condition that specifies the erection of a permanent fence of at least 1.8m height, to be maintained for as long as the site remains in use as a caravan site. Access to the areas within the same ownership for management purposes could still be maintained through the use of a locked gate. The location, design and method of installation of such a fence should be included within the arboricultural method statement.'

3.6 Kent Wildlife Trust: 'The ecological scoping report acknowledges the considerable nature conservation interest at this site and in the adjacent orchards, hedgerows and woodland. It acknowledges the risk of disturbance to important species and recommends steps are taken to avoid and mitigate this

risk with fencing along the western boundary, some tree work and the use of careful design features for any lighting units.

Unfortunately, these measures will not eliminate the risks, which, because of the close proximity of holiday lodges and woodland/hedgerow habitat, will remain significant as a result of the activities of both visitors and their domestic animals. There can be no doubt that the proposed use represents a far greater risk of disturbance than the current lawful use for the storage of caravans.

The trust feels that the application fails to satisfy national, regional and local planning policies, in particular PPS9, key principle vi. It objects to the grant of planning permission.

If, notwithstanding the Trust's objection, the Council is mindful to grant permission, then I would urge it to attach conditions to fence the whole of the site (to contain domestic pets), to rejuvenate the hedgerow on the northern boundary with new native-species (local provenance) planting and to prohibit the use of external lighting, in addition to the recommendations made by the applicant's ecologist.'

3.7 Natural England: No objections, no further survey work required.

3.8 MBC Environmental Health Officer: 'Contamination unlikely to be present. There are no noise issues in relation to transportation noise. The proposed development is in an isolated area. The application was accompanied by a Transport and Noise Assessment. The report concludes that there would be 20 transport movements per day when the site is fully occupied and that the development would not cause a nuisance to the occupants of the nearest residential property 'The Vicarage'.

The development will be served by a Klargestor 8,000l sealed cesspool, which will need to be emptied at appropriate intervals. I note that the plans include an area for separate waste and recycling facilities.'

3.9 Kent Highway Authority: No objections have been raised subject to conditions. Kent Highway Services made the following comments: -

'This site was the subject of a previous appeal for the change of use of land for the garaging of 20 caravans. The appeal was allowed and the Inspector was satisfied that the proposal would not lead to an unacceptable adverse effect on highway safety.

This new application proposes 10 static caravans. The traffic generated by this proposal is not estimated to be high and is unlikely to have an adverse effect on highway safety. 1 parking space is provided for each caravan and the access track to the site is to be 5.5m wide which is considered acceptable. I therefore have no objections to the proposals in respect of highway matters.'

4.0 REPRESENTATIONS

4.1 Neighbouring occupiers were notified and nine letters of objection have been received. The objections are summarised below: -

- Detrimental to highway safety as the site would be accessed off a dangerous bend and an existing busy road;
- The additional traffic would exacerbate existing problems at the Boughton Monchelsea crossroads, where accidents have increased with pedestrians due to speeding and volume of traffic;
- Disturbance to wildlife; loss of trees and/or reduction in size and loss of bluebells;
- Detrimental impact on the Special Landscape Area, agricultural land and infringement of the anti-coalescence belt;
- Potential to impact on a pre-roman earthwork which forms the northern boundary of the site;
- Layout and density of the buildings;
- Loss of privacy;
- Noise, smells and disturbance from use of site;
- Inappropriate location between a vicarage and a primary school;
- Contrary to policies contained in the South East Plan which protect the countryside and agricultural land;

4.2 Boughton Monchelsea Village Hall & Recreation Ground: Comments received as follows: 'The organisation is the body responsible for the management of the village hall, recreation ground and children's play area in Boughton Monchelsea village. Our endeavour is to maintain these amenities on behalf of our community in the manner expected of a rural village setting. The planning application was discussed at the management meeting and the proposal was unanimously against the proposal for the following reasons:

1. The volume of additional traffic that would create on a rural village lane.
1. It's detrimental affect to the amenities of local properties, in particular:
 - The vicarage, where the noise, impact on visual appearance and disturbance is not in keeping with the expectation of villagers visiting their rural vicarage and contrary to the environment required by parishioners attending the vicar for more sober reasons; and
 - The primary school, where the effect on visual appearance, quiet surroundings and general disturbance would not be in keeping with the current rural village setting.
2. The overall detriment to the visual scene of the village and a rural lane, and

3. Contrary to the Maidstone local plan of not building in the countryside.

Of particular concern is the expectation that despite the 'holiday caravan site' label, this development will in fact become a permanent site for 'travellers.'

4.3 CPRE: Is opposed to this application for the following reasons (in summary):

1. Inappropriate development in the countryside. Contrary to policy ENV28 of the MBWLP. The scheme for consideration is significantly different to that granted planning permission by the Planning Inspector for the storage of 20 caravans.
1. Concerned to ensure that the wooden lodge type accommodation is conditioned as being mobile buildings to ensure they do not become permanent dwellings.
2. The reception building will generate additional visits to the site and the security barrier will need to be managed. Arrangements are needed for the emergency services.
3. This is an unsustainable location with reliance on the private car. A disproportionate amount of car parking is shown when considering the size of the unit.
4. Despite letters of support from MBC Tourism and Tourism South East, these letters stress quality provision is needed. CPRE does not consider the proposal to fall within this remit. Considers the suggested 20 vehicle movements per day to be an underestimate and no account has been taken of the trips needed by the cess pool emptying lorry.
5. Shared exit off Church Hill with the vicarage will have a detrimental impact on the vicarage. Noise and light pollution inevitable.
6. CPRE request the application be refused.
7. If approved, CPRE request the following conditions be imposed:
 - Any accommodation must be classed as mobile;
 - The length of stay in any one unit must be regulated; suggest a complete closure period;
 - Exterior lighting to be submitted to MBC for approval;
 - Management scheme for the security barrier;
 - The condition of the ancient earthworks must be regularly inspected to ensure that it is not being damaged and that the track to the site is not being pushed towards the vicarage.

5.0 CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site lies on the west side of Church Hill, approximately 350m south of the cross roads with Heath Road, outside and to the south of the village boundary of Boughton Monchelsea. The site has an area of 0.6 hectares (including the access track) and lies in the open countryside. There are no site specific designations within the Maidstone Borough-Wide Local Plan 2000; there is however an ancient earth work which runs along the northern boundary. The site is roughly rectangular in shape although tapers to the rear at the western boundary. It is accessed off Church Hill by a gravelled track which runs parallel to the northern curtilage of the Vicarage. The initial few metres of the track also serve as an access into the curtilage of the Vicarage. There is a gated entrance into the site at the top of the access track.
- 5.1.2 The site comprises a grassed open area (approximately 0.3 hectares) with substantial tree and hedge planting on all boundaries with some sections of fencing. The trees along the northern boundary are protected by Tree Preservation Order 8 of 1982. There is a further TPO on land adjacent to the north-west corner of the site – TPO 3 of 1994. The trees are approximately 12m in height and vary in condition and species. The site is relatively level. There is also coniferous hedge aligning the southern boundary of the access track which is planted behind a wooden picket fence of approximately 1m in height; the fence is owned by the applicant, the hedge is within the curtilage of the Vicarage. The northern boundary of the access track contains wire mesh fencing with trees behind on adjacent land.
- 5.1.3 At the time of the most recent site visit there were 4 caravans stored on the site.
- 5.1.4 The closest residential boundary is that of the Vicarage which also serves as a community use for personal business relating to the function of the church. The rearmost part of the dwellinghouse is between 25-30m from the western boundary which abuts the application site. The closest proposed caravan would be 38m from the Vicarage and would be separated by a proposed 8-10m landscape buffer.
- 5.1.5 To the north of the site lie open fields with an expired planning permission for open storage of 50 caravans and sporadic development on the boundary with Church Hill. The southernmost boundary of Boughton Monchelsea Primary School is situated approximately 200m north of the application site.

5.2 Proposal

- 5.2.1 Planning permission is sought for a change of use of land to a holiday caravan park for up to 10 static caravans. The development includes access, hard standing, a cesspool, reception building, boundary treatment and a security

barrier. The site is currently used for the open storage of caravans (permission granted for no more than 20). The lawful use of the site will be discussed later in this report.

- 5.2.2 The application includes the submission of a Design and Access Statement; a Noise and Traffic Report; a Sealed cesspool brochure; and a full ecological scoping survey which has been considered by both Natural England and Kent Wildlife Trust.
- 5.2.3 The style of mobile caravan that is proposed is indicated as being finished in timber cladding with a shallow pitched roof – a design akin to a woodland lodge. Each lodge would be provided with one marked parking bay. Within the site a two-way gravel road is proposed of 4.1m in width and the parking is to be grouped to maximise the retention of green areas.
- 5.4.2 It is proposed that the site be served by a Sealed Cesspool in the absence of connection to mains drainage. This is the most appropriate means of containment of domestic sewage for uses such as that proposed. Each caravan will be connected to this drainage system provided under ground and periodically emptied.
- 5.2.5 A small reception building and bin store is to be provided at the front of the site.

5.3 Principle of Development

5.3.1 Development in the countryside is restricted by the terms of Development Plan Policy and Central Government Guidance. There are however, exceptions to this. Policy ED20 of the MBWLP 2000 is a criteria based policy which allows for the provision of holiday caravan sites outside the defined urban and village boundaries. The application should therefore be assessed against the following:

- 1) The site must be unobtrusive in the landscape and not bring detriment to visual or other amenity of the surrounding area;
- 1) The site must be capable of being adequately screened; internally landscaped and capable of appropriate additional landscaping;
- 2) Adequate access, parking and servicing arrangements together with no highway objections;
- 3) Acceptable in circumstances of similar uses in the locality and their combined highway and environmental impact;
- 4) No detrimental impact on neighbouring land uses or residential amenity.

The proposal will be measured against the above criterion within this report.

5.3.2 In addition to policy ED20, there is the more general policy ENV28 which affords protection to the countryside. Policy ENV28 restricts new development in the

countryside subject to 5 criteria and in the case of this proposal it is provided for under criteria 5 – ‘such other exceptions as indicated by policies elsewhere in this plan’; in this instance policy ED20.

- 5.3.3 PPS7 recognises the importance of tourism to the economy and suggests that the benefits of providing self catering holiday accommodation should be balanced against any environmental harm. In principle it accepts that caravan holiday parks are likely to be provided in the countryside; ideally close to settlement boundaries. Emphasis is placed on ensuring no harm is caused to the landscape and environment.
- 5.3.4 In addition to the aforementioned policies, the DCLG issued the ‘Good Practice Guide on Planning for Tourism’ in 2006. This guide highlights the importance of tourism to the economy and provides a framework for accommodating caravan parks through a plan led system. It is recognised that caravan parks on the edge of settlements are often the best location as these can be more sustainable.
- 5.3.5 All of the above mentioned policies and guidance are supportive of the proposed scheme subject to detailed impact. In light of this, I cannot agree with the views of the Parish Council that the development is inappropriate in the countryside.

5.4 Visual Impact

- 5.4.1 Only the access track is visible from Church Hill, with it being some 60m before a kink in the track and the siting of the small reception building. It is not possible to see within the interior of the site from any public vantage points to the north or south. Dense woodland shields the site to the west and the east contains a high evergreen hedge on the boundary of the vicarage. The site is not elevated and the access track provides further screening on both boundaries. Little has changed in terms of the character of the site since the planning inspectors decision in 1997 where it was considered that “*the caravans would have no appreciable adverse impact on the character of this attractive rural area.*” I am of the opinion that long distance views would not be compromised, and that both within the immediate locality, and the wider area the rural character would be protected.
- 5.4.2 The extent of the existing screening when considered with the relatively isolated location of the site, results in a development which would not be capable of causing visual harm to its setting and that of the surrounding area. This being said, the applicant has included within the proposals some additional landscaping on the eastern boundary. This landscaping would be at least 10metres deep, and include a double staggered indigenous hedge, and tree planting (species to be agreed with the Local Planning Authority prior to the development taking place).

I consider that, subject to suitable species being used, this proposed landscaping would be of a form and type that one would expect within the locality, and would blend in harmoniously with the surrounding area. Because the site is already well screened, it is not considered appropriate to request additional planting along any other boundary of the site, or along the access into the site.

5.4.3 I do not agree with representations that the proposal will not be in keeping with rural village life or would compromise the 'quiet surroundings' of the school. The substantial distance from the site to the school is adequate protection, and from my most recent site visit I could only faintly hear the school children outside on their break. The site is well secluded and separate so as not to negatively impact on village life.

5.5 Residential Amenity

5.5.1 There is one residential property which has the potential to be affected by this proposal – that of the Vicarage. The previous inspector's decision found that there would be insufficient grounds for refusal relating to noise and disturbance – this was based on the generous size of the grounds of the Vicarage; the high dense hedges and the existing portakabin office on the northern boundary. These on site circumstances have not changed, with the same access point being utilised, although the nature of this proposal (use) is different. The level of activity generated from 10 holiday caravans to 20 stored caravans is clearly different. In addition to holiday makers being present on site, there will be additional vehicular movements on a daily basis. There is also the added issue as expressed by the Parish Council and the Vicar that there would be a conflict between the two uses as the Vicarage is used for meetings of a sensitive nature.

5.5.2 With the above in mind, the applicant has amended the layout plan to move the caravans further away from the boundary with the vicarage. The nearest caravan would now be some 38metres from the Vicarage, and 12metres from the boundary of the site. An 8-10m fenced over landscaped buffer zone has been provided which adds to the existing vegetation within the vicarage site. It proposed that this include a 1.8metre high close boarded fence along the boundary, and also along part of the access into the site with the Vicarage to further reduce noise and disruption to this property. The plans have also relocated the bin stores so as to place these behind the reception hut and away from the boundary. The residential curtilage of the Vicarage is generous and there is ample private garden area with clear physical and distant separation from the proposed caravan park. I am satisfied that the owners of the Vicarage will not be unduly compromised by the proposed use with regard to the personal enjoyment of their site.

5.5.3 Further information has been sought from the Vicar with regard to the business use of the Vicarage. Visitors do visit the Vicarage for meetings of a more

personal nature both in relation to happy and sad events in their lives. Objection has been raised that a caravan park adjoining the Vicarage would be inappropriate when people are visiting the Vicar to discuss funeral arrangements. The Vicar has provided general information on the nature of visits, but due to personal health issues has not been able to provide a detailed analysis of the frequency of visits, time of day or indicate whether set times are set aside for such meetings. I consider that the majority of visits are likely to be undertaken during the day or early evening and that the combined distance of the caravans; the visual screening and the absence of holiday makers throughout the day are unlikely to cause undue disturbance. I also consider that with regard to vehicle noise disturbance, this is as likely if not more likely to be more pronounced from vehicles driving along Church Hill which is close to the portakabin.

5.6 Highways & Noise

- 5.6.1 A transport assessment accompanied the application. The report advises that 'The visibility from the access looking northward is virtually unlimited from approximately 2.4m from the edge of the carriageway. 'Unlimited' visibility is available to the south from approximately 1.8metres.' The Transport Assessment uses the TRICS database to assess the potential number of vehicle movements per day. Whilst there is not an exact match to the proposed use, the conclusions drawn from comparisons indicate pro-rata approximately twenty vehicle movements per day. I do not consider this to be excessive, and as such would not have a detrimental impact upon highway safety within the surrounding roads.
- 5.6.2 There is an existing bell-mouth which serves the access to the Vicarage and the caravan park. In the previous Inspectors decision, it was considered that the bell-mouth together with the width of Church Hill was adequate to allow safe and convenient manoeuvring for towing vehicles and caravans. As the caravans are now proposed to be permanent features on the site, the majority of vehicle movements will be by car only. The fact that the Inspector considered there to be suitable and safe access for towing to take place, leads me to believe that there will not be an issue with the periodic servicing vehicle required to empty the cesspool.
- 5.6.3 An analysis has also been undertaken of road traffic noise. The anticipated noise is well below the acceptable levels and would be infrequent noise as vehicles arrive/depart from site and door slamming within the site is a considerable distance from the nearest façade of the Vicarage. The Council's Environmental Health Manager is satisfied that there are no noise concerns associated with this application.

5.7 Landscaping, Ecology and Archaeology

- 5.7.1 Landscaping has been mentioned in the previous section on visual amenity. The site already contains a generous amount of screening on the site boundaries. This being said, it is important to retain the existing screening; enhance and protect the boundaries. I consider it would be reasonable and appropriate to ensure fencing around the perimeter of the site, to ensure that holiday makers do not stray under the tree canopies and cause damage to the vegetation. The applicant has indicated that no pets will be allowed on the site. Fencing will also be of benefit as protection of the earthwork on the northern boundary and ecological interests as suggested by Kent Wildlife Trust.
- 5.7.2 The comments of the landscape officer are very detailed and therefore I will not reiterate these. The main conclusions to be drawn are that the proposal can be undertaken without detriment to the existing trees subject to safeguarding.
- 5.7.3 With regard to matters of ecology, it was initially considered by Natural England that further survey work may be required. However, as detailed in the consultee comments, after clarification between the applicant's ecologist and Natural England, there is no need for further work to be undertaken. KWT do however, raise concern over the potential impact of the caravan park on ecology and habitats, I consider that their concerns can be addressed through the appropriate fencing off the site perimeter. Also, as mentioned previously no pets are to be permitted on site.

5.8 Other Matters

- 5.8.1 Reference was made earlier in this report to the lawful planning use of the site. In 1996 planning permission was granted on appeal for the open storage of 20 caravans. In 2002 planning permission was granted on land immediately north of the site for the open storage of 50 caravans; this latter permission was subject to a Legal Agreement that prohibited the use of the current application site for open storage of caravans. The 2002 planning permission has not been implemented and has now expired. Due to the wording of the Legal Agreement, should the applicant wish to continue open storage of caravans under the 1996 permission then the Legal Agreement needs to be formally cancelled. This being said, the current application is not for open storage of caravans, it is for a caravan park and therefore as a different use does not in itself require the Legal Agreement to be cancelled.

6.0 CONCLUSION

- 6.1 In light of the detailed considerations outlined above, I consider that the site is acceptable in policy terms for use as a caravan park. After seeking additional information relating to ecology and landscape issues together with modification to the site layout, I am satisfied that the proposal can be undertaken without

detriment to the character of the area, visual and residential amenity, and will not compromise highway safety.

7.0 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 of 51 of the Planning and Compulsory Purchase Act 2004.

2. The caravan park hereby permitted shall not be open for business between 14 January to the 1 March in any calendar year (the closure period).

Reason: To ensure that the site is not used for permanent residential accommodation pursuant to policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

3. In the period between 1 March and 13 January (inclusive) in any calendar year (the open period), no caravan/lodge shall be occupied by any one individual or group of individuals for any period longer than one month.

Reason: To ensure that the site is not used for permanent residential accommodation pursuant to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

4. No more than 10 caravan/lodges shall be provided on site, details of which must be submitted to and approved in writing by the Local Planning Authority before the development commences. The details shall include external dimensions and materials.

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policies ENV28 and ED20 of the Maidstone Borough Wide Local Plan 2000.

5. The development shall not commence until details of all fencing, and boundary treatment and entry/exit barriers to be placed within the site have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard

the enjoyment of their properties by nearby residents in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan.

6. The development shall not commence until fencing has been erected, in a manner to be agreed with the Local Planning Authority, along the length of the earthworks fringing the northern boundary of the site and to the woodland to the west of the site, and no works shall take place within the area inside that fencing without the consent of the Local Planning Authority.

Reason: To ensure that important archaeological remains are not adversely affected by construction works, to ensure protection of the trees and in accordance with policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

7. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (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 to policy T13 of the Maidstone Borough Wide Local Plan 2000.

8. The development shall not commence until landscaping, planting and management scheme has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development pursuant to policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

9. The development shall not commence until an Arboricultural Method Statement (AMS) has been submitted to and approved by the Local Planning Authority. The AMS shall accord with the recommendations of BS5837:2005 'Trees in relation to construction – recommendations' and should include details of foundation design and methods of construction, details and methods of installation of services within and to the site and details of the design, location and installation of tree protection

measures. The AMS should also demonstrate how caravans will be transported to and from the site and installed on their foundations, without damage to retained trees. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit within any of the areas protected by this condition. The siting of barriers and/or ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory appearance to the development pursuant to NRM7 of the South East Plan 2009.

10. The reception building hereby approved shall be built in accordance with the approved materials as shown on the submitted drawings.

Reason: To ensure a satisfactory appearance to the development and in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

11. The development shall not commence until details of a properly consolidated and surfaced access (not loose stone or gravel) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to first occupation and retained thereafter.

Reason: In the interests of highway safety and in accordance with policy T23 of the Maidstone Borough Wide Local Plan 2000.

12. The development shall not commence until details of any lighting to be placed, erected or provided within the site including any lighting to be attached to the proposed reception building, shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details and no additional lighting to that approved shall be placed, erected or provided within the site at any time without the prior approval of the local planning authority.

Reason: In the interests of the character and amenity of the surrounding countryside and to prevent light pollution pursuant to policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

Informatives set out below

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard Code of Practice BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction

and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, load or unload within the general site outside the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Health Project Manager on 01622 602145 in respect of a licence.

Standard Full Plans, Outline, Reserved Matters Approval Reason:

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and Kent Structure Plan 1996) and there are no overriding material consideration to indicate a refusal of planning consent.



27

A gravel driveway lined with fences and trees, leading to a gate with a white car. The driveway is covered in brown leaves. On the left is a chain-link fence, and on the right is a bamboo fence. In the background, a white car is parked behind a white gate. The number '27' is overlaid on the left side of the image.

28



29

Cherry Tree
Caravan Site

1000
1000
1000
1000

1000
1000



30



32



33



34



35





A green utility shed with a white downspout and a window, partially obscured by a lattice fence and trees. The number 37 is overlaid on the image.

37

38

A photograph of a dirt path lined with a fence made of vertical wooden posts. The path is covered in fallen leaves, and there are trees and a building in the background. A large number '38' is overlaid on the image.

39

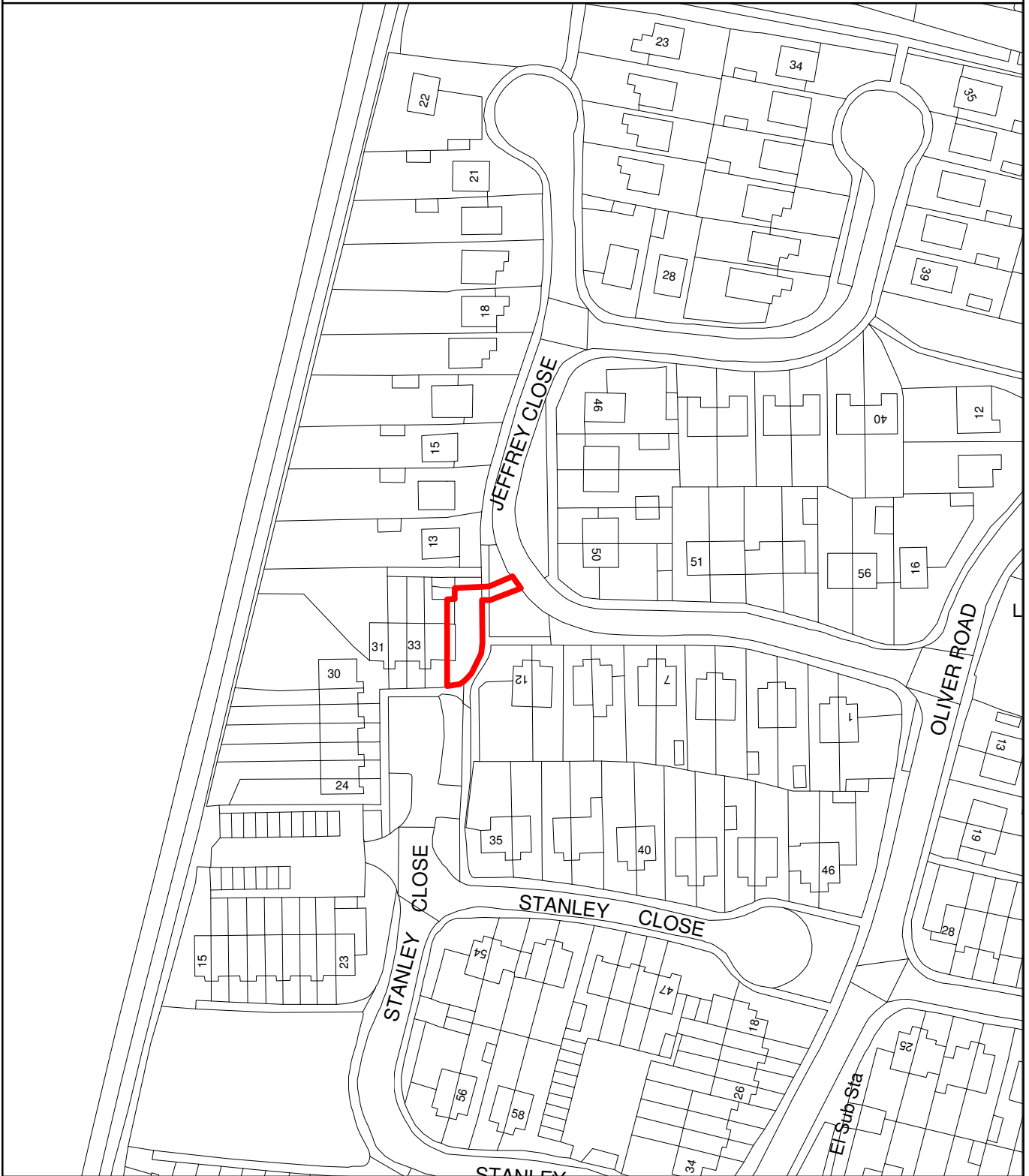


THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0409

GRID REF: TQ7743

34 STANLEY CLOSE,
STAPLEHURST.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2010. Scale 1:1250



Rob Jarman
Head of Development Management

APPLICATION: MA/10/0409 Date: 18 February 2010 Received: 24 May 2010
APPLICANT: Eland Estates
LOCATION: 34, STANLEY CLOSE, STAPLEHURST, TONBRIDGE, KENT, TN12 0TA
PARISH: Staplehurst
PROPOSAL: Demolition of existing single storey side extension and erection of a new two bedroom dwelling adjoining number 34 Stanley Close as shown on Drawing No 4171A1 Rev A, Design and Access Statement and scale 1:1250 site location plan received on 24 May 2010.
AGENDA DATE: 1st July 2010
CASE OFFICER: Laura Gregory

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to the views expressed by the Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: H27, ENV6, T13
South East Plan 2009: SP3, CC1, CC4, CC6, BE1, T4
Village Design Statement: N/A
Government Policy: PPS1, PPS3, PPS9, PPG13,

1. HISTORY

MA/77/1300 - Single storey side extension and repositioning of garden wall – APPROVED WITH CONDITIONS

2. CONSULTATIONS

Staplehurst Parish Council – Wish to see the application REFUSED for the following reasons

“Councillors recommended REFUSAL because the proposal would create an over intensification of the site, a loss of the visual gap and be overwhelming to the street scene, being an addition to an existing terrace of 4 homes. The creation of a separate dwelling would intensify existing parking problems in both Stanley Close and Jeffrey Close where access is already difficult. The open plan character of the area would be ruined by the proposal. A previous application for a two

storey extension has been refused. Councillors requested that this application be report to the Planning Committee.”

As a comment on the Parish Council comments there is no record of a two storey extension having ever been proposed, approved or refused on this dwelling. The only record of an extension is for the existing single storey extension

On receiving revised site plans received on 24 May 2010

“Councillors felt that the revisions were insufficient to overcome their concerns; over- intensification of the site, a loss of the visual gap and over-whelming to the street scene. The impact of parking and access especially around the junction of Stanley Close with Jeffrey Close remained a concern. After discussion Councillors agreed to maintain their original recommendation to REFUSE approval and that this application should be reported to the MBC Planning Committee. (As previously advised 7th April)”

Environmental Health Officer - No objections subject to informatives

KCC Highways – Consulted but no comments have been received to date.

3. REPRESENTATIONS

Four letters of representation received raising the following objections

- Proposal would exacerbate parking problems in Stanley Close and Jeffrey Close
- Addition of a house would unbalance the layout of the estate.
- Loss of privacy
- Insufficient space to safely access and egress from proposed parking space
- Loss of green space adjacent to 12 Jeffrey Close due to being used as cross over to proposed parking space.
- No ecological information provided to deal with local wildlife

4. CONSIDERATIONS

5.1 Site & Surrounding Area

4.1.1 The application site is within the village of Staplehurst and comprises a single storey extension and side garden of an end of terrace house, No. 34 Stanley Close.

4.1.2 The site is a corner plot and is at the end of a residential cul-de-sac which is within a mixed housing estate characterised by blocks of terraced houses to the west and both semi detached and terraced houses to the

east. The dwelling has a detached garage to the rear with off street parking for two cars which is accessed from Jeffrey Close, a residential development of detached and semi detached dwellings located to the north, behind the site. The site is a corner plot, with space of 5m between the building and the side boundary. The site is adjacent to a footpath which links Jeffrey Close with Stanley Close and the boundary with the footpath is lined by a mature hedgerow.

4.1.3 The terraces, including No. 34, have open plan front gardens and comprise 7-8 dwellings which front either a communal car parking area or, communal green. Constructed of light brown brick with white plastic weatherboarding on the front elevations, the terraces are similar in appearance and the open plan front gardens communal car parking area and the communal green give a spacious feel to the estate. Many of the dwellings have been previously extended over the last 20 years, with two storey side extensions permitted on Nos 1, 23, 30, 54 and 55 Stanley Close.

4.2 Proposal

4.2.1 Planning permission is sought for the erection of a two storey, two bedroom dwelling adjoining 34 Stanley Close. It is proposed to be built on the footprint of the existing single storey extension; the proposed dwelling would extend a further 700mm into the garden so it is in line with the front wall of No. 34. It would measure 4m wide and 9.3m deep and would extend out from the existing eaves and ridgeline of No 34, measuring 4.7m and 7.7m above ground respectively. The dwelling would have a garden both to the front and side and would have one parking space to rear. Access to this space would be obtained from the existing access off Jeffrey Close.

4.2.2 The dwelling would be constructed of materials to match those used in the existing terrace, constructed of light brown brick with white weatherboarding to the front. Boundary treatments comprise of a 1.8m close boarded fencing the rear of the dwelling and the existing hedgerow to the side.

4.3 Principle of Development

4.3.1 Situated within the village of Staplehurst, the site is in a sustainable location. Furthermore, Policy H27 allows minor new housing development in rural settlements. As it is only one new dwelling which is being proposed and it is essentially the infilling of a space within an established residential street, the proposal is in accordance with this policy.

- 4.3.2 PPS3 has recently been amended to state that private residential gardens no longer constitute previously developed land. This does not mean to say that all proposals for new housing in residential gardens will be considered unacceptable in principle. In this application only 8% of the garden will be built on with 92% of the proposed development on the site of extension which is previously developed land.
- 4.3.3 As the site is in Staplehurst and Policy H27 allows minor infill development the development is considered to be acceptable in principle. Whilst PPS3 has changed the definition of garden land , it does not say that greenfield development in villages and urban areas is unacceptable and small amount of greenfield land which being developed on, it is not considered the development is unacceptable on this matter. Still, before this application can be determined, the visual impact of development, the impact the development would have on the residential amenity of neighbouring dwellings and the impact on the local highway still need to be considered.

4.4 Visual Impact

- 4.4.1 With respect to the impact of the development on the surrounding area policies CC6 and BE1 of the South East Plan 2009 encourage development which respects, enhances and compliments the character and appearance of the area.
- 4.4.2 Measuring 4m wide and 9.2m deep the proposed dwelling is the same width and depth as the dwellings which form the existing terrace block. Built in line with the terrace, and extending out from the existing ridgeline, the proposed dwelling would appear as a continuation of the terrace and is of modest proportions, to the extent that would not unbalance the symmetry of the terrace.
- 4.4.3 With regard to the impact on neighbouring street Jeffrey Close, there is no strong or defined building line which needs to be respected and although the proposed dwelling would be marginally forward of the front wall of 13 Jeffrey Close, it is well divorced from this property by a distance of 16m. Combined with the distances of 14.5m from the road and 7m from adjacent dwelling 12 Jeffrey Close, the proposed development ensures that a spacious gap between the two streets is maintained and as such, the spacious character of the area is preserved.
- 4.4.4 Considering the range of two storey side extensions which have been built within the vicinity of the site, it is considered that in terms of its design

and external appearance, the proposed dwelling would sit well in the context of the surrounding development, appearing more as an extension of the host dwelling, as opposed to a separate new entity divorced from the established pattern of development.

4.4.5 With only one dwelling proposed and located on a plot which is of similar size to those which surround it, the proposal would not result in an over-intensive or cramped development appearing more as an infill residential extension. With a space of 4m maintained at first floor level between the proposed dwelling and the boundary line and with open garden space maintained to the front of the dwelling, the spacious, open plan character of Stanley Close is preserved with a pleasant outlook to the area would be maintained. Given the open plan nature of Stanley Close and the positive contribution it makes to the area it is considered that permitted development rights pertaining to garden walls and fences should be removed, to ensure the spacious character of the street and neighbouring Jeffrey Close is preserved.

4.4.6 Constructed of materials which match those used in the host building the proposed dwelling would compliment the appearance of the terrace and the neighbouring terrace blocks located in Stanley Close. The main issue with regard to the design is the flank wall which would be visible from Jeffrey Close. It is considered that, notwithstanding the small, narrow window to the bathroom, the proposed flank wall of the dwelling would be one solid brick mass. However, given that the existing flank wall is solid mass of brick wall with a small bathroom window and that this is replicated on the dwellings immediately surrounding the site, it is considered that in this case the appearance of the side wall is acceptable.

4.5 Residential Amenity

4.5.1 The proposed dwelling would be located some 16m from 13 Jeffrey Close which is to the rear of the site. Considering that the new dwelling would be no closer to this property than No. 34, it is considered that proposed development would not result in a significant loss of light. There are no windows in 13 Jeffrey Close which would be overlooked and the proposed dwelling would not benefit from direct views of the neighbours private area of garden. As such it is considered that there would be no loss of privacy.

4.5.2 With regard to 12 Jeffrey Close, given that this dwelling is set forward of the proposed dwelling, and is separated by a public right of way with a

distance of 7m between the two buildings, it is considered that there would be no significant loss of light caused to this property. As the only window proposed in the flank wall of new dwelling is a bathroom window, it is considered that there would be no loss of privacy.

- 4.5.3 Considering the residential amenity of 34 Stanley Close, a parking space is proposed in the rear garden, it will be positioned at least 4.8m from the neighbour's boundary so as to minimise the disturbance caused. With suitable boundary treatments, disturbance caused by lights shining into the adjoining dwelling would be satisfactorily overcome and considering that it is only one space which is being proposed, it is considered that the noise and disturbance caused by this additional space is relatively minor in comparison to the noise already experienced by the car movements from neighbouring properties in Jeffrey Close.

4.6 Highways

- 4.6.1 The development proposes one off street parking space to rear. Any additional parking would be on the street. As the site is within a residential cul-de-sac where there are no parking restrictions, and considering it is only a two bedroom dwelling which is being proposed, it is considered that there would be no significant highway safety issues raised as a result of this proposal. A parking implementation condition is recommended to ensure that the space is implemented prior to the occupation of the new dwelling and kept available thereafter for such use.
- 4.6.2 With regard to the access to the site, whilst the use of the access would intensify with the new dwelling, the impact on the dwellings in Jeffrey Close in terms of traffic generated by the site is not considered to be significantly unacceptable given only one additional car would use this access.

4.7 Landscaping

- 4.7.1 The only landscaping details which have been submitted to date are the details of the new fence to the rear and the retention of the hedgerow on the east boundary. This is acceptable but it is recommended that a condition requesting a landscaping scheme is imposed, to ensure that the hedgerow is preserved. Furthermore, to maintain open plan character of site and surrounding area it is recommended that permitted development rights with regard to fences are removed.

4.8 Other Matters

- 4.8.1 Located on the side of 34 Stanley Close, the proposed dwelling would have a rear garden measuring approximately 3m wide and 9.2m deep. It would also benefit from a front garden measuring 5.6m deep and 6m wide. The rear garden would face east and would be bounded the hedgerow which presently lines boundary of the site with the footpath between Stanley Close and Jeffrey Close. Given that the new dwelling is a two bedroom house, it is considered that the size and amount of the garden space provided would provide adequate amenity space for the occupiers of the dwelling. Adequate amenity space would also be provided for the occupier of 34 Stanley Close, whose rear garden would be reduced to a width and depth of 4m and 11.4m respectively.
- 4.8.2 Considering the letter of objection which raises issue over the lack of ecological information provided to deal with local wildlife, no evidence has been submitted or, gathered from Officer's site visit which gives details of any protected species within the area. The site is not within the village envelope, and is not within or close to a designated SNCI or SSSI. As such it is not considered that there would be any significant harm caused to wildlife. It is in accordance with advice contained within PPS9 and therefore no objection is raised over this issue.
- 4.8.3 With regard to the neighbour's objection over the issue of insufficient space to safely access and egress from the proposed parking space the amended site plan received on 24th May 2010 clearly shows sufficient turning space into and out of the space. It is therefore considered that this issue is sufficiently overcome. The impact on the highway has been already been addressed.
- 4.8.4 With regard to the Code for Sustainable Homes, it is has been discussed and agreed with the applicant that a condition is imposed that requires the development to achieve at least Level 3 of the Code for Sustainable Homes. This is in accordance with the principles of policy CC4 of The South East Plan.

6. CONCLUSION

- 6.1 In conclusion, considering the above, it is considered that that the proposal is in accordance with the provisions of the Development Plan and would not cause significant or unacceptable harm the character of Stanley Close or Jeffrey Close. It is therefore recommended that the application be approved subject to the following conditions.

7. 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 not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policies BE1 and CC6 of The South East Plan 2009 .

3. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (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 in accordance with policy T13 of the Maidstone Borough-Wide Local Plan 2000 and T4 of the South East Plan 2009.

4. The dwelling shall achieve at least Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved

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

accordance with Policy CC4 of The South East Plan 2009.

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of 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 measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-wide Local Plan 2000 and BE1 and CC6 of The South East Plan 2009.

7. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road;

Reason: To safeguard the open plan character and appearance of the development in accordance with policies BE1 and CC6 of The South East Plan 2009.

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during

works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Observing that the use of the premises is not yet finalised, the occupant should contact the Environmental Health Manager regarding possible pollution control measures.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

No vehicles may arrive, depart, be loaded or unloaded within the general site except between the hours of 0800 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

51

29.04.2010

52

29.04.2010

53

29.04.2010

54

29.04.2010

55

29.04.2010

56

29.04.2010

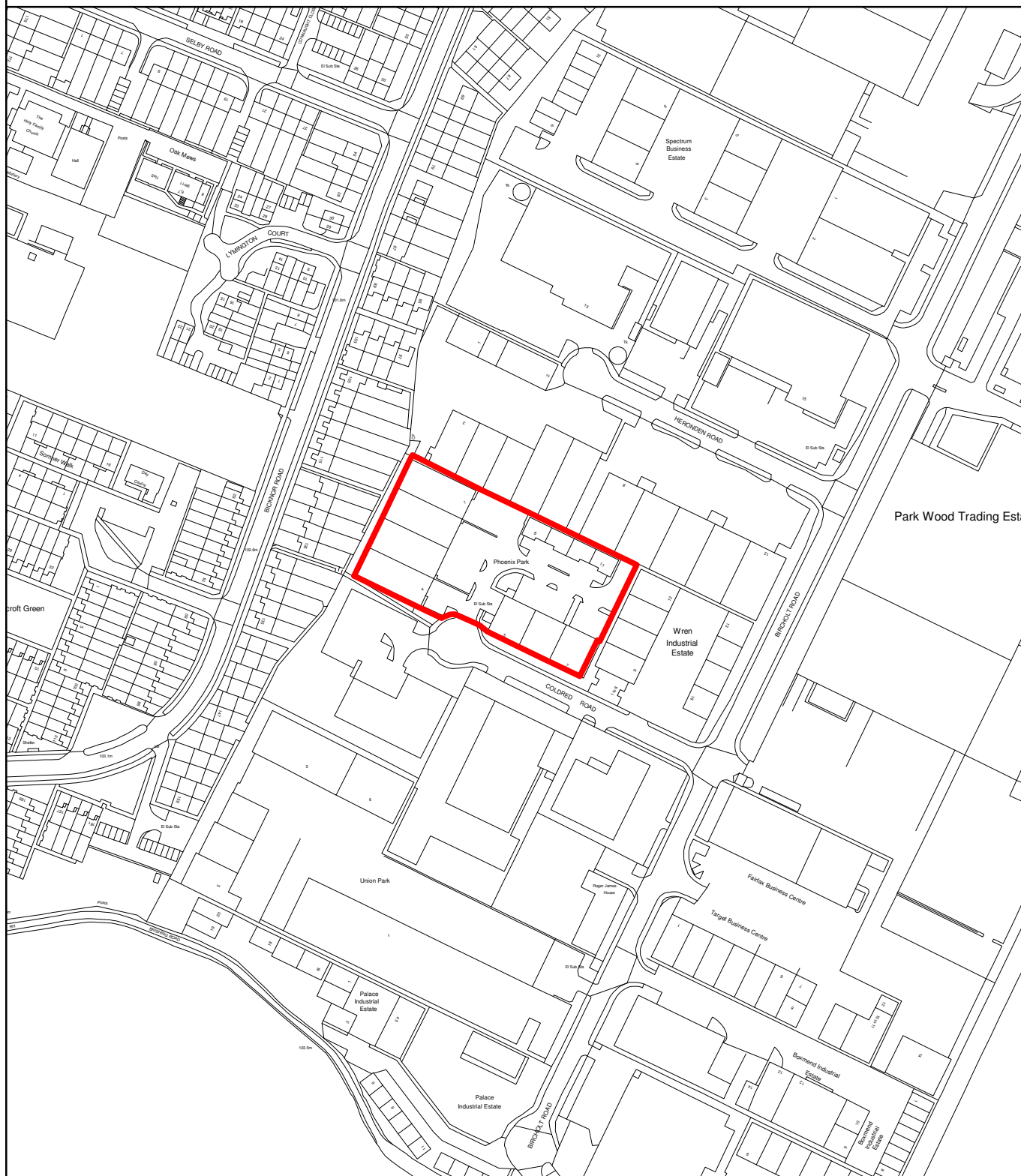
Agenda Item 15

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0491

GRID REF: TQ7851

1-11 PHOENIX PARK, PARKWOOD INDUSTRIAL ESTATE,
COLDRED ROAD, BOUGHTON MONCHELSEA.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2010. Scale 1:2500



Rob Jarman
Head of Development Management

APPLICATION: MA/10/0491 Date: 22 March 2010 Received: 20 April 2010

APPLICANT: Lisburne Estates Ltd

LOCATION: 1-11 PHOENIX PARK, PARKWOOD INDUSTRIAL ESTATE, COLDRED ROAD, BOUGHTON MONCHELSEA, MAIDSTONE, KENT, ME15 9XN

PARISH: Boughton Monchelsea

PROPOSAL: Application to remove Condition 3 of MA/06/0675 (Retrospective application for the change of use from B1 to mixed use of B1 & B8) to allow permitted change of use to solely B1 or B8 as set out in a letter received 20th April 2010 (dated 22nd March 2010).

AGENDA DATE: 1st July 2010

CASE OFFICER: Catherine Slade

The recommendation for this application is being reported to Committee for decision because:

- the Council is the owner of the site

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ED2, ED9, R18

South East Plan 2009: CC1, CC6, RE3, RE5

Village Design Statement: Not applicable

Government Policy: PPS1 Delivering Sustainable Development, PPS4 Planning for Sustainable Economic Growth

2. RELEVANT PLANNING HISTORY

- MA/06/0675: Retrospective application for the change of use from B1 to mixed use of B1 & B8 – APPROVED WITH CONDITIONS
- MA/97/1610: Retrospective planning application for uses falling within use classes B1, B2 and B8 - WITHDRAWN
- MA/79/1686: New small units for light industrial use – APPROVED WITH CONDITIONS

3. CONSULTATIONS

Boughton Monchelsea Parish Council: Did not wish to comment/object to the proposal.

Maidstone Borough Council Environmental Health Manager: Raise no objection to the proposal.

Kent County Council Highways: Raise no objection to the proposal.

4. REPRESENTATIONS

One objection was raised to the proposal, which raised concern with regard to potential noise disturbance.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The proposal site is located within the defined urban boundary of Maidstone in the Parkwood Industrial estate, which is designated in the Local Plan for B1 and B2 uses and car sales rooms under policies ED2(iv) and R18(iii).
- 5.1.2 The site is located to the north of Coldred Road in the south of the industrial estate, and is bounded to the north, south and west by industrial units and to the west by residential properties on Bicknor Road.
- 5.1.3 The site comprises 11 units (identified as 1 to 11 inclusive) of various sizes facing onto a central parking and turning area. The buildings are arranged in 3 blocks of 3 and 4 units along the north west, north east and south west boundaries of the site with a central parking and turning area which has some landscaping. The buildings are single storey structures of conventional design and appearance.
- 5.1.4 Planning permission for the units was granted in 1979 under MA/79/1686 for the erection of the units for "light industrial use" (B1) subject to conditions. Subsequently a planning permission was sought under MA/06/0675 for mixed use of the site. This was granted subject to a condition (3) that restricted the use of units 8, 9, 10 and 11 to B1. These are the smallest units which are located along the north east boundary of the site. The units back on to the large industrial units on Heronden Road.
- 5.1.5 The reasons for imposing this condition were the impact of traffic generation caused by the B8 use of the 4 units on the local highways network and the amenity of local residents. These dwellings are sited approximately 88m to the North West of unit 8 and are located behind units 1, 2, 3 and 4 of Phoenix Park.

5.2 Proposal

- 5.2.1 This application seeks the removal of condition 3, as detailed above, to allow a mixed B1 and B8 use of units 8, 9, 10 and 11. The condition currently restricts the use of the units to B1.

5.3 Principle of Development

- 5.3.1 The site is located within an existing industrial estate which is designated in the local plan for B1 and B2 uses. The estate currently supports a range of uses within the scope of B1, B2 and B8.
- 5.3.2 The previous planning permission (MA/06/0675) granted planning permission for the mixed use of units 1, 2, 3, 4, 5, 6 and 7 for B1 and B8, whilst restricting the use of units 8, 9, 10 and 11 to B1. The principle of B8 use on the site is therefore acceptable in principle.
- 5.3.3 As previously stated, the site is within the Parkwood Industrial Estate and is designated as being retained for employment uses falling within Use Classes B1 and B2 within the Local Plan and car sales rooms under planning policies ED2 and R18. Policy ED9 of the Local Plan allows for B8 uses on sites designated for B2 uses subject to the uses being well related to the local highway network.
- 5.3.4 The South East Plan 2009 and PPS4 (Planning for Sustainable Economic Development) which postdate the Local Plan, seek to encourage flexibility in employment provision within the planning system. This is set out in policy RE3 of the South East Plan 2009 which requires Local Planning Authorities to facilitate a flexible supply of land for employment purposes, while policy RE5, which relates to "smart growth", seeks to achieve the most effective and efficient use of land and premises in the context of changing working practices.
- 5.3.5 In addition, policy EC11 (Determining planning applications for economic development (other than main town centre uses) not in accordance with an up to date development plan) of PPS4 (Planning for Sustainable Economic Growth) require that in determining such applications consideration should be given to economic considerations, longer term benefits and whether the proposal would help to meet the wider objectives of the development plan.
- 5.3.6 In the context of the site history and existing mixed use of 7 units for B1 and B8 within the site and surrounding industrial estate, and the policy framework, it is considered that the principle of the removal of the condition is acceptable.

5.4 Residential Amenity

- 5.4.1 The condition was imposed on MA/06/0675 in response to comments from the Environmental Health Manager raising concerns with regard to the amenity of local residents.
- 5.4.2 This application seeks the removal of condition 3 attached to MA/06/0675, which restricts the use of units 8, 9, 10 and 11. These units back onto the industrial premises to the south of Heronden Road, as set out above, and are located a minimum of 88m from the nearest residential properties, which are on Bicknor Road. Given the existing uses in Phoenix Park, including the B1 and B8 use of units 1, 2, 3 and 4, which back onto the gardens of the dwellinghouses, and elsewhere within the industrial estate, it is not considered that the removal of the condition would result in harm to the amenity of the occupiers of the nearby dwellinghouses by virtue of the sheer distance involved between the units and the residential properties.

- 5.4.3 This is supported by the comments of the Maidstone Borough Council Environmental Health Officer who raises no objection to the removal of the condition, and does not consider that the use of the units for B8 use would result in any additional detrimental impact upon local residential amenity.
- 5.4.4 Members will be aware that the application does not seek to secure a B2 use for the site, that is a general industrial use which would by definition potentially be "un-neighbourly" with regard to issues such as noise, vibration or dust.
- 5.4.5 Notwithstanding the above, it is noted that the previous permission (MA/06/0675) imposed a condition restricting the hours in which deliveries can be made and taken to 0800 to 1800 weekdays, 0900 to 1600 Saturdays and at no time on Sundays, Public and Bank Holidays. This condition is still in force and therefore it is not necessary to impose such a condition under this permission. There are no existing restrictions on the hours of operation of the units under either MA/79/1686 or MA/06/0675, and it is considered unreasonable to restrict such hours by way of condition given the context of the site and the surrounding uses and given this and the lack of restraint over other units within the estate it is not considered reasonable to attach such a condition to the permission.

5.5 Highways

- 5.5.1 The removal of the condition could potentially result in larger numbers of vehicle movements, however these would be restricted with regard to times as per the condition set out in paragraph 5.4.5 above. Any increase is unlikely to be significant in the context of the existing uses permitted within Phoenix Park and the estate as a whole, and the size of the four units to which the current application applies would limit the level of activity within to some degree.
- 5.5.2 The Kent County Council Highways Manager has raised no objection to the proposal, stating that the removal of the condition would not significantly intensify traffic generation or affect the existing parking arrangements.
- 5.5.3 Given this, and the existing vehicular access to the site and its good relationship to the primary road network, it is not considered that the proposal would result in harm to highway safety, and to be in accordance with policy ED9 of the Local Plan.

5.6 Visual Impact

- 5.6.1 The removal of the condition would not result in any operational development and there would therefore be no visual impact.

5.7 Other matters

- 5.7.1 As has been stated in the application, if the condition had not been imposed, the units would benefit from permitted development rights to change use from B1 to B8 by virtue of their existing use and the scale of the units (having an area of less than 235m²) under the provisions of Class B, Part 3, Schedule 2 of the Town

and Country Planning General Permitted Development Order 1995 (as amended).

6. CONCLUSION

- 6.1 In the context of the existing uses permitted under MA/06/0675 and elsewhere within the industrial estate, as defined in the Local Plan, and the policy support for increased flexibility in planning for economic growth as set out in the South East Plan 2009 and PPS4, it is considered that the principle of the removal of the condition is acceptable. The proposal would not result in harm to the amenity of the occupiers of neighbouring dwellings, or result in an unacceptable impact upon the local highway network. For the reasons set out above, it is considered that the proposal to remove condition 3 of MA/06/0675 is in accordance with policies RE3 and RE5 of the South East Plan 2009 and EC11 of PPS4 Planning for Sustainable Economic Growth, and I therefore recommend it for approval, subject to the following conditions.

7. RECOMMENDATION

GRANT PLANNING PERMISSION

Informatives set out below

For the avoidance of doubt, conditions 1 and 2 of MA/06/0675 remain in force and applicable to the site in its entirety.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.



09.06.2010


Edwards Bros (Dulwich) Ltd
Electrical Wholesalers & Distributors
Sales Counter Open to Trade & Public
Free Catalogue available
Tel: 0122 690

64

09.06.2010



Edwardes Bros
 Electrical Wholes
 Sales Counter Op
 Free Catalog
 All Major B
 Tel : 016

Phoenix Park

- 1 TO LET
- 2 TO LET
- 3 TJC Electrical
- 4 PFS Plumbing Supplies
- 5 Edwardes Bros Electrical
- 6 Edmanbar Electrical
- 7 M G Probers
- 8 Lionhart Products
- 9 Denka
- 10 Placeflow Ltd
- 11 Jenith Survey Equipment

65

66

Salvatore Bros (Salvick)
Electrical Wholesalers & Distributors
Tel: 01272 452994
Fax: 01272 452924

Electrical Wholesalers & Distributors
Sales Counter

09.06.2010

67

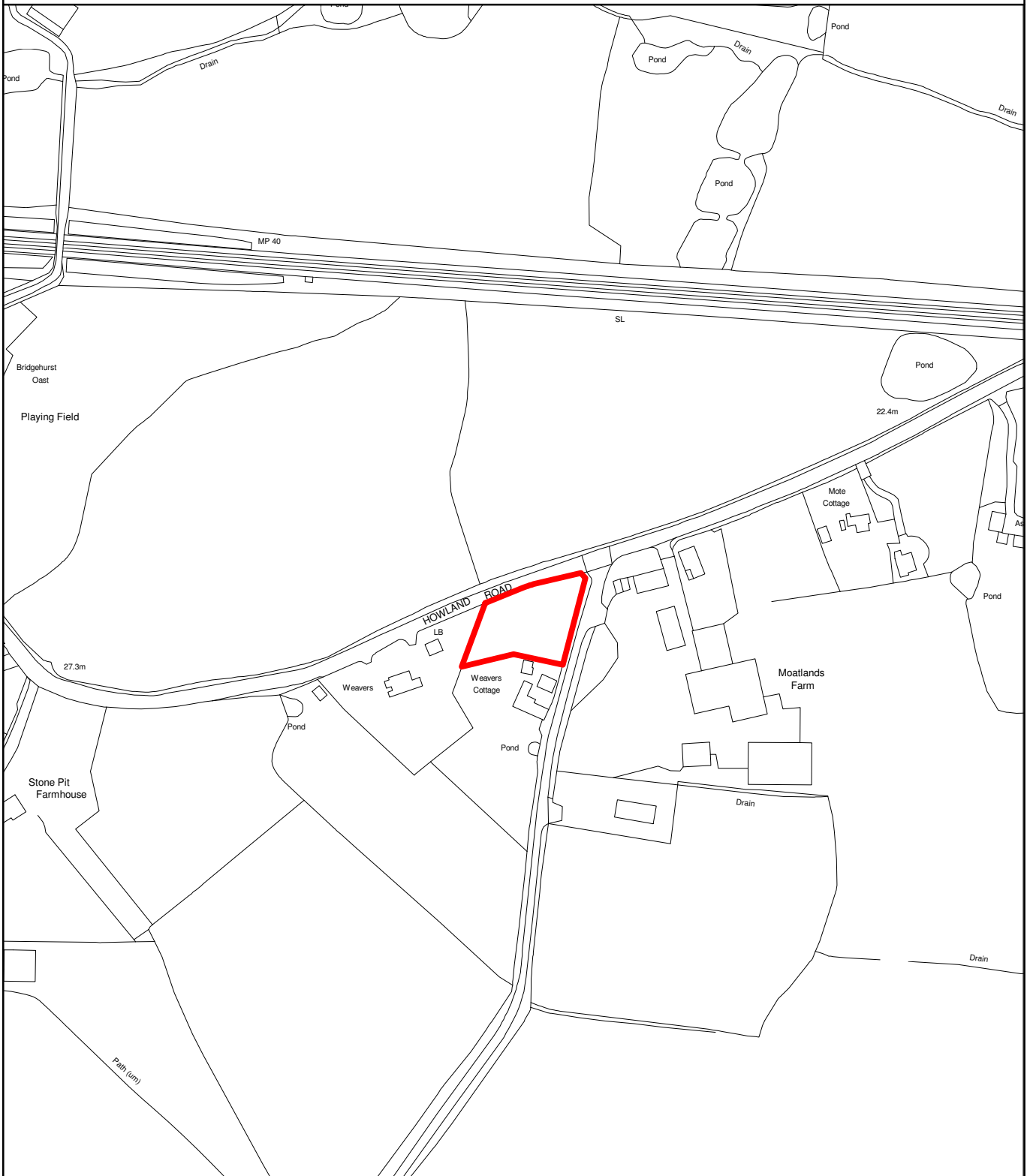
09.06.2010

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0538

GRID REF: TQ7544

**WEAVERS COTTAGE,
COPPER LANE, MARDEN.**



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2010. Scale 1:2500



Rob Jarman
Head of Development Management

APPLICATION: MA/10/0538 Date: 26 March 2010 Received: 29 March 2010

APPLICANT: Mrs P Bowles

LOCATION: WEAVERS COTTAGE, COPPER LANE, MARDEN, TONBRIDGE, KENT, TN12 9DH

PARISH: Marden

PROPOSAL: Erection of a new ecological live/work unit including external store and car port (re-submission of MA/09/2029) as shown on drawing nos. 001 RevP, 002 RevL, 004 RevE, 005 RevH, 006 RevG, 007 RevD, 009 RevA, 010, 011 received on 29th March 2010 and 003 RevF and 008 RevB received on 30th March 2010.

AGENDA DATE: 1st July 2010

CASE OFFICER: Richard Timms

The recommendation for this application is being reported to Committee for decision because:

- Councillor Blackmore has requested it be reported for the reason set out in the report

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28
The South East Plan 2009: CC1, CC6, H1, C4
Government Policy: PPS1, PPS3, PPS7

1. HISTORY

MA/09/2029 Erection of a new dwelling including external store and car port – REFUSED

MA/08/1445 Erection of single dwelling including store outbuilding and carport - WITHDRAWN

2. CONSULTATIONS

- 3.1 **Marden Parish Council:** Would like to see the application REFUSED for the following reasons:

"Councillors felt that for this application to be approved as a departure of planning policy ENV28 the build would need to be of exceptional design and after reading through the Design and Access statement felt that this was not the case.

Live/work builds were not currently in any planning policy and it was felt that the agent had not covered any argument to show this as a departure.

That justification/evidence had not been given in the Design and Access Statement as to why new accommodation was needed instead of an extension to existing property or building an outbuilding specifically for the business. If the proposed build is for a specialist use the agent needed to argue the case.

For them to review the application and reconsider justification would need to be made and additional information provided."

- 3.2 **Councillor Blackmore:** If you are minded to refuse this application please report it to planning committee for the following reasons:

"This is a much needed live/work unit in the village. Live/work units are not specifically addressed in the present Development Plan. This property will be a good example of a modern energy efficient property which uses current technology to deliver a sustainable building which should have low running costs."

- 3.3 **Environmental Health Manager:** No objections.

3. CONSIDERATIONS

4.1 Site & Setting

4.1.1 The site is located outside the defined settlement boundary of Marden being around 380m east of the edge of the village and for planning purposes falls within the open countryside.

4.1.2 The application site is within the north part of the garden of the applicants existing detached dwelling, 'Weavers Cottage'. Its northern boundary runs alongside Howland Road for some 43m and returns south alongside Copper Lane for around 38m. It then heads west for some 43m before returning north for 39m to Howland Road. There is an access off Copper Lane which serves the existing dwelling. There are a number of trees and hedges within the site, a conifer hedge set behind trees along the north boundary and a hedgerow along the east boundary. There are two dwellings and a group of farm buildings east of

the site of which some are used for business purposes. South of the site is the existing dwelling and grassland beyond and west of the site is the dwelling 'Weavers'. Further north on the opposite side of Copper Lane are open agricultural fields.

4.2 Proposed Development

- 4.2.1 Whilst the agent has described this proposal as a new 'live/work unit' I consider it to essentially be for a detached 4 bedroom two storey dwelling with detached car port and store. I note that studio/study space is provided on the ground floor for the applicant's textile business and the basement would be used for some work storage, however I do not consider this to represent a live/work unit. I consider a live/work unit to be a mixed use whereby a property is designed primarily for employment floorspace but which also includes a small element of residential space connected to the employment premises. I consider this proposal to be a dwellinghouse (C3 use) with a small studio (around a sixth of the floorspace) and basement storage not uncommon for dwellings of this size.
- 4.2.2 The house would be occupied by the applicant where she would run her business as a professional textile artist, specialising in quilts. Her business involves personal work for commissions and exhibitions, research, teaching, workshops and courses and associated paperwork. Currently, she has been using her dining room but as the business has grown this solution is no longer considered adequate. It is stated that a larger space is needed for the large amount of storage for textiles and related materials, accommodating workbenches and long arm quilting machines.
- 4.2.3 The dwelling would be erected within the north end of the existing garden of 'Weavers Cottage' with the existing access shared. The dwelling would be positioned centrally within the site with its main frontage facing southwest and new driveway on the east side. It would be set back some 11m from Copper Lane and 3.5m from Howland Road at its nearest point. The walls and roof panels for the dwelling would be largely prefabricated off-site and then erected within a 2/3 day period on site. The construction employs sustainable materials and techniques resulting in lower energy use. It is submitted that the dwelling has been designed to meet or exceed the guidelines and standards for Lifetime Homes and Level 4 of the Code for Sustainable Homes.
- 4.2.4 The dwelling would have a basement with utility room and plant room. The ground floor would have a living/dining area, kitchen, study/studio and the first floor would have the four bedrooms and bathroom. The building would have a main section with pitched roof on an east to west axis, ridge height 6.9m and eaves 4.5m. There would be a two storey gable projection off the southwest side, set down from the main roof by 0.4m but with a slightly higher eaves height and balconies to the sides. The studio area would project from the north

corner of the dwelling with a flat roof. The detached car port would be to the east of the dwelling with a flat roof. Materials would be pre-fabricated panel timber walls with white timber boarding, plain clay tiles for the pitched roofs of the dwelling and light grey single ply membrane for the flats roofs. The new driveway would have a permeable gravel finish.

4.3 Planning History

4.3.1 Two applications for similar development have been submitted at the site in 2008 and 2009. The 2008 application (MA/08/1445) was withdrawn and the 2009 application (MA/09/2029) was refused in January this year for the following reasons:

1. *The proposed development lies outside a defined settlement, within open countryside and represents a form of unsustainable development for which there is no overriding justification. The proposals would further consolidate existing sporadic development detrimental to the character and appearance of the countryside hereabouts. This would be contrary to the aims of Planning Policy Statement 7: Sustainable Development in Rural Areas and policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.*

4.3.2 This application was similar in that it also proposed a two storey house but the workspace was provided in a detached outbuilding. A similar personal case was put forward to justify the new dwelling but it was not consider sufficient to outweigh established policies for the location of new housing.

4.4 Assessment

4.4.1 It needs to be considered whether or not the latest proposals, which basically now provide larger and integral work space overcome the previous reason for refusal. In doing this I will assess the principle of the development, the personal circumstances and the visual impact.

4.4.2 The application site lies outside the village envelope and is within the open countryside for the purposes of the Development Plan. PPS7 'Sustainable Development in Rural Areas' at paragraph 8 in relation to housing states that, "the focus for most additional housing in rural areas should be on existing towns and identified service centres" and that Planning Authorities should "strictly control new house building (including single dwellings) in the countryside, away from established settlements or from areas allocated for housing in development plans." The recent re-classification of private gardens from previously-developed (brownfield land) in PPS3 means that the site is now regarded as greenfield land. PPS3 'Housing' outlines at paragraph 36 that, "the priority for development should be previously developed land in particular vacant and derelict sites and buildings".

- 4.4.3 Policy ENV28 of the Local Plan restricts development in the countryside to specific types of which a new dwelling is not one, nor is it an exception indicated by any other policies in the Local Plan. Policy H27 makes reference to Marden but outlines that new residential development will be restricted to minor development, within the boundaries of the village. Essentially both National and Local planning policies seek to resist the development of greenfield land.
- 4.4.4 The South East Plan 2009 follows Government advice outlining that the principal objective of the Plan is to achieve and maintain sustainable development and protect the countryside under policies CC1, CC6 and C4.
- 4.4.5 In this case, the application site is not within a site allocated for housing development. It is not located within the confines or next to a rural settlement but is found on a rural road with sporadic and scattered development nearly 400m from the eastern edge of the Marden settlement boundary. The dwelling is not proposed for a farm, forestry or other rural worker and it is therefore considered that the proposed development would result in residential development within the open countryside for which there is no justification. PPS7, PPS1 and PPS3 seek to locate new residential development at the major/principle urban areas and established rural settlements and as such the proposals are in direct conflict with Development Plan policy. To provide a dwelling at the site would result in an unsustainable form of development where any future occupants would rely on the private motor car for services, facilities, health care needs etc. This is contrary to the principle aims of PPS1, PPS3 and PPS7.
- 4.4.6 It therefore needs to be considered whether the need and provision of some work space within the dwelling are sufficient grounds for allowing otherwise unacceptable residential development in the countryside taking into account sustainability and visual impact considerations. Essentially the applicant's case is that the proposals would accord with PPS4, that the dwelling will be energy efficient and sustainable being the type of development the Government encourages, and that the applicant's personal circumstances justify the need for the development.

4.5 Principle of Development

- 4.5.1 I appreciate the 'live/work unit' concept is mentioned in PPS4 at plan making policy EC2 where it is stated that Local Planning Authorities should ensure that their Development Plan "*facilitates new working practices such as live/work.*" Clearly at present there is no Local Plan policy to support the proposals. However, I note that at paragraphs 85 and 132 of the 'PPS4 Impact Assessment' reference to live/work is made but this is in the sense of businesses starting up at homes through the use of information technology and home working rather than through the erection of new dwellings with a small element of work space.

To my mind the concept of live/work is either home working from an existing dwelling, or possibly through the conversion of a suitably located existing building, where the property is designed primarily for employment purposes but which also includes a small element of residential space connected to the employment premises. This would represent a mixed use and I do not consider this proposal to represent such a use as it is essentially a large new 4 bedroom dwelling (C3 use) with a small studio work space. Notwithstanding my view that the proposals do not represent a live/work development, I note that no unilateral undertaking has been put forward to secure such a use in perpetuity.

4.5.2 In looking at the merits of the development the only positives of the development are that the applicant would not need to travel to work (which she doesn't at present) and the sustainable construction methods. The negatives are that trips would still need to be made by car for shops, services, health care etc. and trips by students, deliveries etc. would be made to the site by car, which is likely to increase as the business grows. My view is that simply a reduction of work vehicle movements is not sufficient bearing in mind the unsustainable location and remaining vehicle movements that would be made to and from the site. Whilst the sustainable construction methods are commendable, this is now common place with many new builds and again not sufficient grounds in my view to allow the development. In addition, the employment floorspace could not be used separate of the dwelling so the employment potential is restricted to the occupier and once they vacate the premises or no longer choose to run a business, an unsustainable dwelling would be left.

4.6 Need for Development

4.6.1 it is stated that the applicant works from home at irregular hours and that a rural location is required to draw inspiration for the work. It is stated that an industrial unit would not be conducive to creativity and would be expensive and that in the last three years an alternative home has not been found. I am not convinced that the applicant's job does demand a rural location. I appreciate it may be preferable to be in rural surroundings but I do not consider this is essential to run this business. I appreciate the cost of adapting the existing house may be high but note that the applicant states that the outlay for renting a unit '*might*' eat up too large a proportion of her earnings, not that it definitely will. Nonetheless, I do not consider this is sufficient grounds to allow the development. It is stated that the applicant has tried to find studio premises nearby but no suitable space is available. No specific evidence has been provided in this respect, however again I do not consider these are sufficient grounds to allow the development. On this basis I do not consider applicant's personal circumstances demonstrate an overriding need for the development, which would remain at the site long after the applicant vacates it.

4.7 Visual Impact

4.7.1 Turning to the visual impact, Policy ENV28 states that permission will not be granted for development which harms the character and appearance of the area. The new dwelling, which is of considerable size, and for which there is no justification, would be clearly visible from Howland Road and Copper Lane. The proposals would introduce unwelcome additional development to an undeveloped garden that would cause visual harm to the character and appearance of the countryside hereabouts.

4.8 Conclusion

4.8.1 Central Government and Local planning policies seek to protect the countryside and locate new housing within the settlement boundaries of the major/principle urban areas and established rural settlements. The proposals represent a single dwelling outside of the defined settlement boundary on greenfield land that is in direct conflict with these established policies. I do not consider the provision of on-site work accommodation and some reduction of work trips is sufficient to outweigh this conflict, bearing in mind the significant amount of other trips that would still occur to and from the site. There is no overriding need for this development, the proposals would result in clear visual harm to the countryside and clearly this harmful development would remain long after the applicant vacates the site. For these reasons, I consider that the development is unsustainable and visually harmful and does not comply with local and national policy. I therefore recommend that it is refused.

5 RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

1. The proposed development lies outside a defined settlement, within open countryside and represents a form of unsustainable development for which there is no overriding justification. The proposals would further consolidate existing sporadic development detrimental to the character and appearance of the countryside hereabouts. This would be contrary to the aims of Planning Policy Statement 7: Sustainable Development in Rural Areas and policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

76

24.06.2010

77

24.06.2010

A photograph of a road junction. A paved road curves to the right. On the left side of the road, there is a utility pole with power lines. A large, leafy tree stands behind the pole. The sky is overcast with grey clouds. The number '78' is overlaid on the image, oriented vertically next to the utility pole.

78

24.06.2010

79

08.04.2010

80

24.06.2010

81

24.06.2010

82

24.06.2010

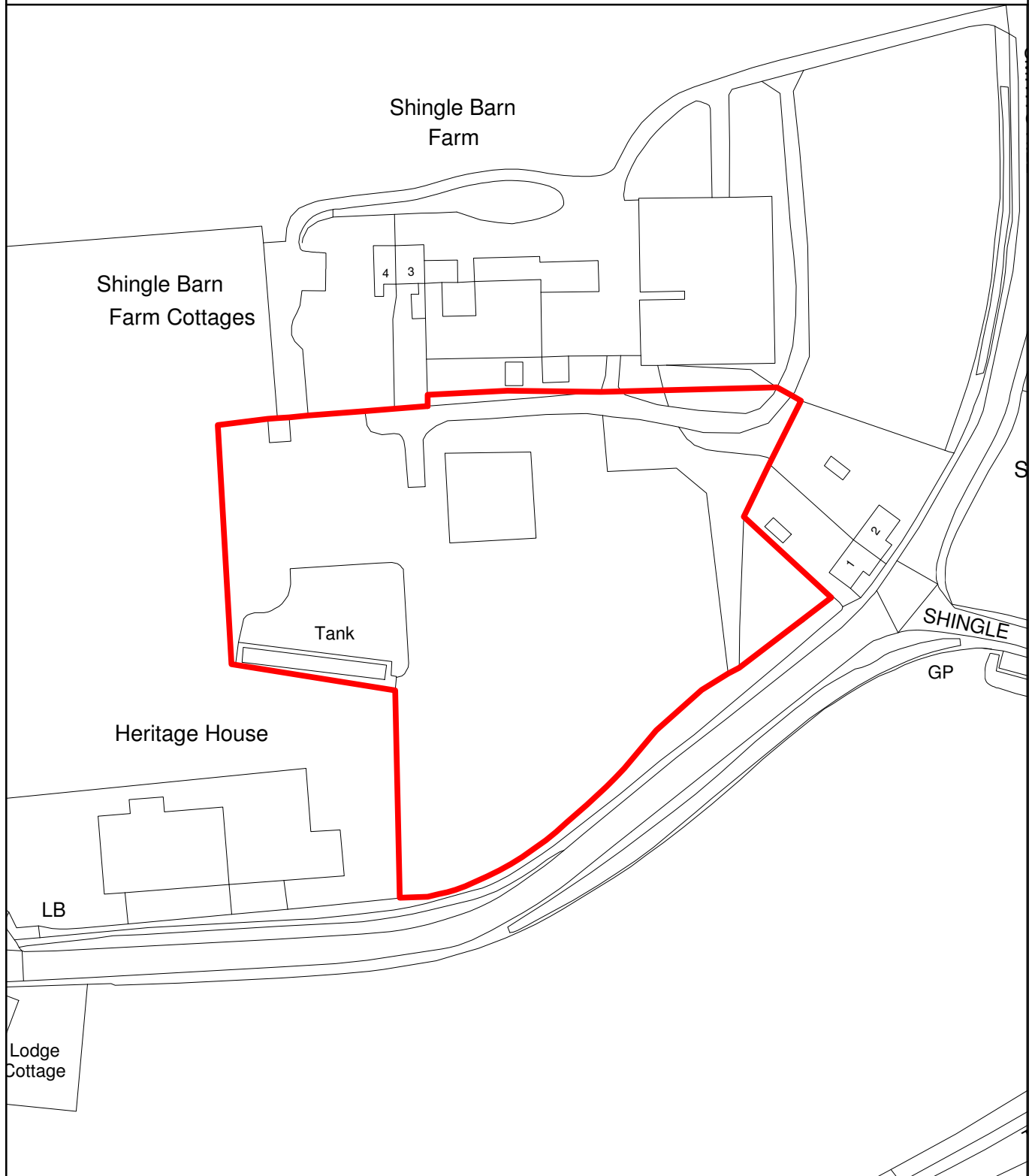
Agenda Item 17

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0670

GRID REF: TQ7051

LAND ADJ. TO No. 3 SHINGLE BARN COTTAGES,
SMITHS HILL, WEST FARLEIGH.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2010. Scale 1:1250



Rob Jarman
Head of Development Management

APPLICATION: MA/10/0670 Date: 19 April 2010 Received: 22 April 2010

APPLICANT: Mr S Brown

LOCATION: LAND ADJ TO NO 3, SHINGLE BARN FARM COTTAGES, SMITHS HILL, WEST FARLEIGH, MAIDSTONE, KENT, ME15 0PH

PARISH: Yalding

PROPOSAL: Erection of one agricultural store building for the secure storage of farm machinery as shown on three drawings all numbered SBFC/10/04P (Site Location Plan, Site Plan and Store Plan and Elevations) and supported by a design and access statement, all received 21st April 2010.

AGENDA DATE: 1st July 2010

CASE OFFICER: Catherine Slade

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by the Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV43

South East Plan 2009: CC1, CC6, C4

Village Design Statement: Not applicable

Government Policy: PPS1 Delivering Sustainable Development, PPS7 Sustainable Development in Rural Areas

2. HISTORY

2.1 The application has been submitted by the applicant in reaction to an enforcement investigation (ENF/10977) which was opened in response to a complaint regarding the stationing of four containers on the land for the purposes of storage. The containers remained on the site at the time of the site visit, however they were not on the site of the proposed building, which would be located approximately 30m to the east.

3. CONSULTATIONS

3.1 **Yalding Parish Council:** Wish to see the application refused on the grounds that the building is “far bigger than required for the level of agricultural activity in the site”.

3.2 **Rural Planning Ltd:** No objection to the proposal on the grounds that the building of this size and design is required for the storage of equipment used in the agricultural working of the land, and that the scale and design of the building is appropriate to the use and level of activity on the site.

4. REPRESENTATIONS

4.1 No representations were received.

5. CONSIDERATIONS

5.1 Site Description & Setting

5.1.1 The site is located in the open countryside and has no specific environmental or economic designations in the Local Plan.

5.1.2 The site comprises a field located to the south of numbers 3 and 4 Shingle Barn Farm Cottages and the buildings of Shingle Barn Farm. The site runs up the hillside to Smiths Hill, which forms the southern boundary of the site, and abuts Heritage House and 1 and 2 Shingle Barn Farm Cottages, which front onto the highway.

5.1.3 The site is approximately 0.9Ha in area, and is currently in small scale agricultural use comprising an extensive area laid to orchards, small scale livestock keeping, and vegetable and fruit growing. The site is not part of a larger holding.

5.2 Proposed Development

5.2.1 The proposal is the erection of an agricultural building for the purposes of the secure storage of equipment required in association with the agricultural use of the land.

5.2.2 The proposed building would have a rectangular foot print, with the longer axis parallel and adjacent to the north boundary of the site with Shingle Barn Farm, and therefore in close proximity to existing buildings of similar appearance and scale on the neighbouring holding. The building would be to the immediate south of the access track which provides vehicular access to the site from Smiths Hill via Shingle Barn Farm yard.

5.2.3 The building would also be in close proximity to number 3 Shingle Barn Farm Cottage, which is in the ownership of the applicant.

5.2.4 The proposed building would have a rectangular footprint of 72m², and would have an eaves height of 3.15m and a height to the ridge of 4.3m. The building would be constructed of composite roof sheeting and wall panels in green, and would have a pedestrian door and roller shutter and ramp providing vehicular access to the west elevation.

5.3 Principle of Development

5.3.1 The site is located in open countryside and the use of the land is agricultural. The purpose of the proposed building is to serve the existing agricultural use of the land through providing storage facilities for equipment required for the use including a tractor, mower, and other agricultural machinery.

5.3.2 Whilst policy ENV28 of the Local Plan restricts new development in the open countryside, an exception is made for development that which is reasonably necessary for the purposes of agriculture. The Rural Planning consultant has confirmed that the proposed building is necessary for the purposes of agriculture on the site, and that whilst the area of the land is relatively small, that it is used for agriculture and that the scale and size of the building is commensurate with the needs of the holding. This is supported by observations on site which indicate that that whilst the scale of the agricultural operation is small, the use of the land is for the purposes of agriculture. The principle of the development is therefore considered to be acceptable within the policy framework.

5.3.3 Policy ENV43 of the Local Plan is the key policy under which applications for agricultural buildings should be assessed. The policy sets out the criteria which proposals for such development should satisfy.

5.3.4 The policy requires that the visual impact of the development is acceptable through suitable landscaping and good grouping with existing buildings, and sympathetic to the built and natural surroundings. The scale of the proposed building is considered to be modest, and the design is in keeping with the intended use. The building is sited sensitively within the site adjacent to the boundary and well grouped with existing agricultural buildings. Although no landscaping scheme has been submitted in support of the application, the building would be screened from views to the north by existing buildings and to the south, east and west by existing planting, however it is considered appropriate to request the submission of an appropriate landscaping scheme in order to soften views of the proposed building from the south and west.

5.3.5 The development would not result in any detrimental impact upon the amenities of the occupiers of neighbouring dwellings by virtue of its siting in relation to numbers 3 and 4 Shingle Barn Cottages.

5.3.6 The proposal would have no adverse impact upon the local highway network.

5.4 Visual Impact

5.4.1 The visual impact of the proposed building would be limited. The building is modest in scale and closely grouped with existing agricultural buildings of similar size and appearance. The building would not be visible from any public vantage points. Notwithstanding this, it is suggested that a landscaping condition be attached to any permission to secure appropriate screening of the south and west elevations of the building in order to soften its appearance within the wider landscape context.

5.5 Residential Amenity

5.5.1 The building would be sited at a minimum distance of 33m from the nearest residential property. It is not considered that the development would result in any harm to the amenity of the occupiers of the nearby properties with respect to overshadowing, loss of light or loss of outlook. It is not considered that the use of the building for the storage of equipment incidental to the agricultural use of the land would give rise to any noise disturbance to neighbouring occupiers.

5.6 Highways

5.6.1 The proposed development would facilitate an existing use on site, and would not generate any additional vehicle movements from or to the proposal site. There is an existing vehicular access to the site from Shingle Barn Farm.

6 CONCLUSION

6.1 Local, regional and national planning policies seek to restrict development in the open countryside, subject to certain exceptions, one of which is development reasonably necessary for the purposes of agriculture. The site is in agricultural use, albeit small scale, and the applicant has demonstrated that the reasonably necessary for the use. The principle of the proposal is therefore acceptable.

6.2 The appearance and scale of the building are in keeping with the built and natural surroundings of the immediate area, and would not result in harm to highways safety or the amenity of neighbouring properties. The proposed development is therefore in accordance with policies ENV28 and ENV43 of the Maidstone Borough-Wide Local Plan 2000.

7 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. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping for the purposes of screening the development hereby permitted from views to the south and west. The submitted scheme shall use indigenous species and shall include and a programme for the approved scheme's implementation and long term management. The

scheme shall be designed using the principles established in the Local Planning Authority's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and to ensure a satisfactory appearance to the site and protect and enhance the appearance and character of the open countryside in accordance with policies ENV28 and ENV43 of the Maidstone Borough-Wide Local Plan 2000 and CC6 and C4 of the South East Plan 2009.

3. All planting, seeding or turfing comprised in the details of landscaping approved under condition 2 shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory appearance to the site and protect and enhance the appearance and character of the open countryside in accordance with policies ENV28 and ENV43 of the Maidstone Borough-Wide Local Plan 2000 and CC6 and C4 of the South East Plan 2009.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

88

14.08.2010

06

14.06.2010

91

14.06.2010

92

14.06.2010

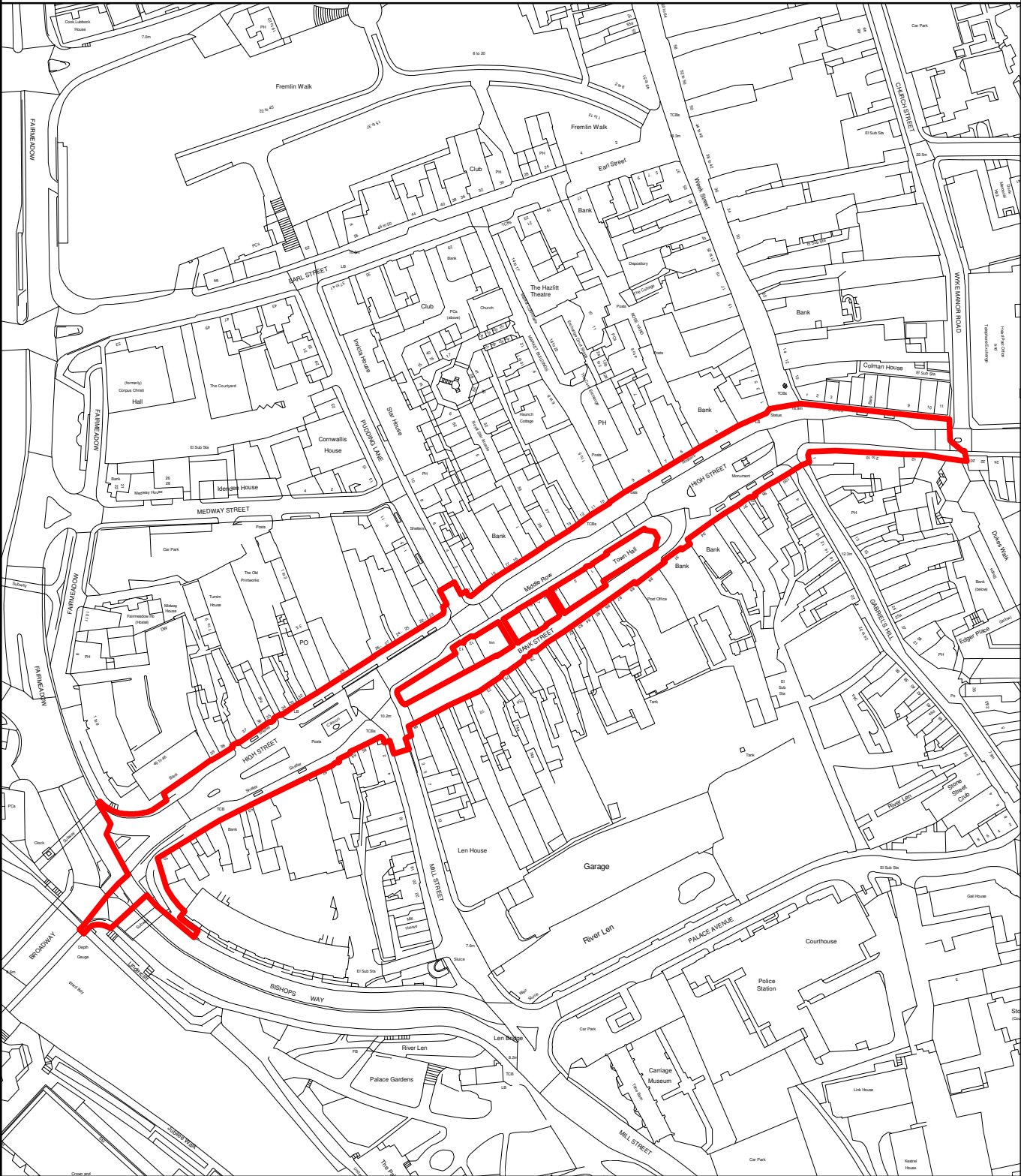
93

14.06.2010

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0691 GRID REF: TQ7555/7655

TOWN CENTRE REDEVELOPMENT,
HIGH STREET & KING STREET, MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2010. Scale 1:2500



Rob Jarman
Head of Development Management

APPLICATION: MA/10/0691 Date: 23 April 2010 Received: 23 April 2010

APPLICANT: John Foster, Maidstone Borough Council

LOCATION: TOWN CENTRE REDEVELOPMENT, HIGH STREET & KING STREET, MAIDSTONE, KENT

PARISH: Maidstone

PROPOSAL: Planning application for the provision of new ramps, steps and landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge and the closure of one existing subway, relocation of the cannon and its placement on a new plinth, removal of 3 existing Plane Trees and 1 Field Maple and their replacement with 8 Cherry and 7 Hornbeam Trees, provision of illumination for the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto, in connection with other works (which do not require the benefit of planning permission) including the realignment and re-paving of carriageways and pedestrian areas and crossing points, the relocation of 'bus stops and shelters, taxi ranks, loading bays and disabled parking bays and the removal/relocation and/or provision of new street furniture including benches, lighting, leaning-posts, telephone boxes, removal of planters and shrubs and the relocation of the existing CCTV pole by the cannon in accordance with plans numbered 100A; 009A; 010; 011; 012; 013; 014; 015; 001; 006A; 110; 728-004; lighting proposal; drainage strategy; and design and access statement received on the 23 April 2010.

AGENDA DATE: 1st July 2010

CASE OFFICER: Chris Hawkins

The recommendation for this application is being reported to Committee for decision because:

- The Council is the applicant

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV7, T13
South East Plan 2009: BE1, BE6, MA1, SP2, SP3, AOSR7
Village Design Statement: N/A

Government Policy: PPS1, PPS5, PPG13

2.0 HISTORY

MA/10/0254 High Street and King Street, Maidstone. Application for the provision of new ramps, steps and landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge and the closure of one existing subway, relocation of the cannon and its placement on a new plinth, removal of 4 existing Plane Trees and their replacement with 8 Cherry and 7 Hornbeam Trees, provision of illumination for the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto, together with other works including the realignment and re-paving of carriageways and pedestrian areas and crossing points, the relocation of 'bus stops and shelters, taxi ranks, loading bays and disabled parking bays and the removal/relocation and/or provision of new street furniture including benches, lighting, leaning-posts, telephone boxes, removal of planters and shrubs and the relocation of the existing CCTV pole by the cannon. Withdrawn.

MA/10/0255 High Street and King Street, Maidstone. Application for listed building consent for the relocation of the cannon and its placement on a new plinth together with installation of lighting to illuminate the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto. Withdrawn.

2.0.1 There have been a significant number of other planning applications within the High Street and King Street, however, none of these are considered to be relevant in the determination of this planning application.

3.0 CONSULTATIONS

EXTERNAL CONSULTATIONS

3.1 English Heritage have been consulted and advise that this application should be determined in accordance with the policies within the Development Plan and following the Councils 'in house' Conservation advice.

3.2 The Environment Agency were consulted and have raised no objections to this proposal.

3.3 Southern Water were consulted and have raised no objections to this proposal.

3.4 Kent County Council Archaeology were consulted and have raised no objections to this proposal subject to the imposition of a suitable condition requiring the provision of an archaeological assessment – a condition has been suggested within this report.

3.5 Kent Police were consulted and no comments have been received to date. If received, these will be included within the urgent update.

3.6 EDF Energy were consulted and no comments have been received to date. If received, these will be included within the urgent update.

3.7 Scottish Gas were consulted and no comments have been received to date. If received, these will be reported within the urgent update.

3.8 Kent Highway Services were consulted and have made the following comments: -

3.8.1 'The High Street scheme, involving only works to an existing highway and within the highway boundary will not need planning consent for the highway works, just a S278 agreement. I have no objection to the principle of the scheme, however we still need to approve the Stage 1 technical and safety audit to progress the works.'

3.9 The Disabled Advisory Group were consulted on 27 April 2010 and no comments have been received to date. If received, these will be reported within the urgent update. It should be noted that the applicant has consulted with this Group directly, and amendments have been made to the scheme accordingly – such as the provision of disabled parking bays within the High Street (which would be used as loading bays in evening hours).

3.10 INTERNAL CONSULTATIONS

3.11 Maidstone Borough Council Conservation Officer was consulted on 27 April 2010 and supports this application. His comments are as follows: -

3.11.1 'This scheme is the result of a winning architectural competition entry and wide negotiation and discussion and should result in a major enhancement of the Conservation Area. Key to its success is its simplicity and lack of clutter, enabling the fine spaces and buildings to be readily appreciated to a degree not currently possible. The loss of existing trees is acceptable as in many cases these are inappropriately sited and cause visual and practical conflict with buildings. The lighting scheme will enable the buildings and spaces to be enjoyed at night in a dramatic way, and although in one or two cases this results in quite a significant number of light fittings attached to individual buildings, the fittings

themselves are small and should not impact unduly on the character of the buildings involved.'

3.12 **Maidstone Borough Council Landscape Officer** was consulted and made the following comments on this application: -

'The only difference between the two schemes (this one and the previously submitted application) is that the 3 fastigate Hornbeams to be planted at the eastern end of the High Street are shown to be planted opposite the bus stops.

In addition, the recent Arboricultural Implications Assessment provides further information, including a tree survey and photographs of the trees to be removed. The BS587:2005 grading system has been cited but all the trees have been classed as 'B' grade (moderate) except the Field Maple, which has been classed as 'A' (high quality). As stated in my previous comments I consider the majority of the trees on the High Street are of limited amenity value and, therefore I would not necessarily agree with the condition assessment provided. The tree with the greatest value, in my view, is the Plane tree in front of the Town Hall. However, whilst this tree is in a prominent position, it is evident that the surrounding pavement has been severely disrupted due to root activity. This has resulted in a health and safety hazard and would make it very unlikely that the tree could be retained within a new paving scheme.

Whilst the removal of so many trees may initially have an adverse impact on the appearance of the Conservation Area, I consider the planting proposal which consists of fastigate Hornbeams and 8 Cherries (*Prunus avium Plena*) will provide, in the long term, a more structured and sustainable scheme which is appropriate to the setting and will enhance the Conservation Area.

For clarification, the 4 no. Plane trees proposed to be removed are in fact 3 no. Planes; and one Field Maple.'

Following on from this response, I requested the Landscape Officers view on the loss of the existing tree outside of the Town Hall. The response was as follows: -

'The Plane tree outside the Town Hall, I agree is a prominent specimen given its location on the High street. In addition to my comments dated 27/04/2010 there are additional points regarding the Plane Tree outside the Town Hall.

1. It is of no historical or cultural relevance to the High Street.
1. It is a semi mature in age which means that it still has a number of years of growth to reach its maximum size, given its close proximity to the Town Hall will result in branches encroaching onto the building. This usually results in works being carried out to alleviate associated problems (i.e. leaf litter in gutters etc).

2. Plane trees are usually reduced, this results in excessive regeneration at the point of the cut. If this work is carried out then it necessary for a regular program of re-pollarding to be undertaken on a 3-5 year basis, which is an additional cost. For an example there are two plane trees near the entrance of Fremlins Walk, Earl Street I think, which have been severely reduced recently resulting vigorous re-growth.
3. If it were integrated into the scheme then it would be necessary to lower the ground level to accommodate the disruption to the surrounding pavement which is a result of tree root activity. This would result in a disjointed look to the High Street.

With regards to the quality of the replacement trees. Generally speaking trees in a highway environment will always have a limited life expectancy, this is due to harsh growing conditions underground; compacted soil, services and contaminated soil. I would suggest that advance heavy standard specimens are planted which will have an immediate impact on the high street. Also it may be worth as part of the condition, a method statement is supplied on how they will be planted and a detailed maintenance program is submitted guaranteeing replacement tree are planted in the event of trees failing to establish.

The new scheme shows more trees will be introduced and will be evenly distributed along the High Street. The proposed trees, Hornbeam and Cherry, are considered appropriate species for an urban setting; they will require little maintenance and produce minimal leaf litter. Furthermore the proposed location of the trees as shown on the site layout will ensure that the traditional spatial constraints associated with street tree planting; such as close proximity to buildings, signs and street furniture is avoided. In addition, location of the trees will ensure that the buildings and spaces will be appreciated by the general public.

It is, therefore, recommended that on landscape/arboricultural grounds the application should be approved subject to suitable conditions.'

4.0 REPRESENTATIONS

4.1 Neighbouring properties within the High Street and surrounding area were notified and in addition, 10 site notices were erected around the town centre to publicise this planning application. In response, to date, 4 letters of objection have been received. The concerns raised within these letters are summarised below: -

- The loss of the existing tree adjacent to the Town Hall would be to the detriment of the character of the area;
- The tree is a place that people meet, and this facility would be lost;
- The proposal would have an impact upon the existing businesses;

- The loss of the other trees within the locality, would be detrimental to the locality;
- Concern over noise and disturbance during works;
- Concern over the future road layout.

A petition has been received containing 647 signatures. This petition seeks to ensure that the tree outside of the Town Hall is retained within any redevelopment of the High Street.

One letter of support has been received. The letter states that proposal will enhance the High Street.

5.0 CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site covers the full length of the High Street from its junction with the A229 Fairmeadow, running up through the High Street to the junction of King Street and Wyke Manor Road. This covers a total of 1.2 hectares. The most westerly part of the application site forms part of the A229, at the junction of Fairmeadow and Bishops Way. At present a subway runs beneath this road for pedestrian movements, as well as a pelican crossing at road level. The trees to be removed are located outside the Town Hall and the 'Muggleton Inn'.
- 5.1.3 As one moves eastwards into the core town centre the pavements follow the line of the existing buildings which splay out on the southern side, producing a wider central area, in which there is a cannon. There are bus stops located on the southern side of the street, and a bus lane on the opposite side of the street running eastwards. The High Street at this point is lined by a mixture of buildings, some of significant age, whilst others are of a more recent construction.
- 5.1.4 A junction with Mill Street results in all through traffic being directed away from the main shopping centre. This is a traffic light controlled junction, with a pedestrian crossing linking into Bank Street. It is at this point that the shopping area effectively 'splits' into two distinct streets – Bank Street running to the south, and the High Street continuing on the northern side. There are small flower beds on the northern side of the High Street at the junction with Mill Street.
- 5.1.5 This area lies within the core of the Maidstone Conservation Area (the Conservation Area ends at the junction of King Street and the High Street to the east, and at the western end of the High Street), and is fronted by a number of historically significant buildings, many of which contain historic shop-fronts or facades. The greatest concentration of listed buildings are clustered around the

Upper High Street area and within Bank Street. This area also contains the Town Hall, a Grade II* listed building, which dates back to the 18th Century. Bank Street contains many buildings dating from between 1500 and 1700, and is considered to be of significant historical importance. At present, this road is part pedestrianised, with limited vehicular movements allowed (subject to time of day, deliveries etc.).

- 5.1.6 There are vehicular movements within the High Street at present – buses and taxis predominantly, as well as providing an element of disabled parking on street. There is a comparatively wide pavement on the north side of the High Street at this point, which is relatively free of clutter.
- 5.1.7 To the north-east of the Town Hall is the Queen Victoria statue, located centrally within the highway in a wider section of the street. This area has a cluster of bus stops on either side of the street. Pedestrian movements at this point of the street are limited to two narrow pavements on either side of the road (whilst not physically narrow, the siting of the bus stops makes them appear as such).
- 5.1.8 Further eastwards, the character of the street changes significantly. There is a pedestrian crossing that links The Mall shopping centre and Week Street (this is constructed of pavers, denoting the change in its use), and beyond this, traffic controls which prevent private cars from entering the area from the east. This area is flanked predominantly by rather unremarkable buildings to the north, and the shopping centre to the south. Much of this area falls outside of the Conservation Area.
- 5.1.9 Overall, it can be seen that the site contains areas which vary significantly in their appearance and character.

5.2 Proposal

- 5.2.1 This application forms part of a regeneration project for alterations to be made to this part of the town centre, to create a more 'pedestrian friendly' environment. The plans submitted show all aspects of the proposal, however, not all elements of the works require the benefit of planning permission. As such, I will outline the elements that require planning permission, and thus are for consideration.
- 5.2.2 The only elements of the scheme that require planning permission, and **are** for consideration are as follows: -
- The provision of new ramps, steps and landing area on either side of Bishops Way;
 - The closure (i.e. the physical blocking up) of the existing subway underneath Bishops Way;

- The relocation of the existing cannon, and its placement upon a new plinth;
- The removal of the existing trees and their replacement with 14 new trees. These trees are to be located to the south-east of the road in the lower High Street – 8 cherry trees - within a relatively informal line, to the north east of the Town Hall – 3 hornbeam - within a regular line, and on the south side of King Street – 3 hornbeam - again set out in a regular pattern;
- The provision of lighting upon the Queen Victoria monument. This lighting would be up lighters set both within the ground, and placed within the monument.

5.2.3 It is only these elements that require planning permission. The General Permitted Development Order, Schedule 2, Part 12, Class A of this Order allows for the following works to take place without the benefit of planning permission:

-

5.2.4 *'The erection or construction and the maintenance, improvement or other alteration by a local authority or by an urban development corporation of: -*

(a) any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;

(b) lamp standards, information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, barriers for the control of people waiting to enter public service vehicles, and similar structures or works required in connection with the operation of any public service administered by them.'

5.2.5 In addition, Schedule 2, Part 13, Class A of the Town and Country Planning (General Permitted Development) Order allows for the following to take place without the benefit of planning permission: -

5.2.6 *'The carrying out by a local highway authority on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.'*

5.2.7 The following elements of the proposed high street improvements **do not** form part of this application, and **are not** for discussion, or determination as part of this planning application: -

- Re-alignment of the highway;
- Re-paving of the carriageways, pedestrian areas and crossing points;
- The relocation of 'bus stops, shelters, taxi ranks, loading bays and disabled parking bays;

- The removal/relocation and/or provision of new street furniture (including benches, lighting, leaning posts, telephone boxes);
- The removal of planters and shrubs;
- The relocation of the CCTV pole by the cannon.

5.3.8 Conservation Area consent is also being applied for concerning the loss of the existing trees within the site, and listed building consent for the relocation of the cannon and additional lighting upon the Queen Victoria statue.

5.3 Principle of Development

5.3.1 There are no specific policies within either the Maidstone Borough Wide Local Plan or the South East Plan which would preclude a development of this nature. However, there are a number of government documents that support improvements to public realm including By Design (CABE - 2000), and Manual for Streets (2007). Policy TC2 of the South East Plan (2009) refers directly to providing '*safe, secure and attractive environments for people to live, shop and work.*'

5.3.2 Furthermore, as stated above, this application assesses only a small number of the overall elements of the High Street improvement plan, and the principle of making such small alterations to public realm is accepted, subject to suitable design. As such, it is not considered that there is any in principle objection to the proposal.

5.4 Visual Impact

5.4.1 Maidstone High Street currently consists of wide areas of highway, with the provision of bus stops and car parking areas (currently used for taxi parking). The majority of the highways are constructed of tar macadam, with a mixture of other materials used for the paving. There is also a significant amount of 'clutter' around the highways (by clutter, I refer to signage, barriers, traffic lights, and other street paraphernalia). The combination of this clutter and the volume of traffic using the High Street has a significant impact on the ability to view (particularly from a long distance) many of the important historical buildings, and monuments within the area. Furthermore, the materials used at present are in many instances unattractive, and utilitarian and do little to address the historic fabric of the buildings that line the streets.

5.4.2 In addition, whilst there are trees within the High Street at present, these are not set out in such a way to best frame these buildings, nor make the most of the spaces that surround these buildings – instead trees appear to be located simply where there is space, rather than having been planted as a continuous framework aligned with the highway as with many tree lined streets.

- 5.4.3 In determining this application, it is therefore important to assess whether the proposal would improve the visual appearance of the town centre, whilst ensuring that the historic fabric and character is maintained or improved.
- 5.4.4 As set out within the proposal above, some elements of the overall scheme are not for discussion, as they do not require the benefit of planning permission. As such we can only assess the impact of those that do, upon the visual amenity of the area. As such I will address these elements individually, prior to providing an overall assessment of the scheme.
- 5.4.5 The creation of new ramps, steps and landing areas upon the south side of Bishops Way, together with the closure of the existing subway. This end of the High Street is not particularly 'pedestrian-friendly', with a subway provided for pedestrians, together with a number of barriers surrounding the pelican crossing. This proposal would see the loss of the subway – which is not considered to be to the detriment of the character of the area. The subway is a relatively inhospitable environment, and does little to contribute positively to the character of the area. Likewise, the approach to the subway on either sides of the road does not provide high quality public realm. The new ramps, steps and landing areas would not only provide a clear route across the highway, but would also remove the underpass, with a more open space, constructed of granite. This change would also remove a significant level of clutter that currently exists around this junction. Whilst samples of the proposed materials have been submitted, I am aware that these are potentially subject to change, and as such, I recommend that a condition be imposed that requires details of materials to be submitted prior to the development taking place, to ensure a high quality finish to the development.
- 5.4.6 The removal of the existing trees within the application site, would result in the loss of well established trees, in particular the large oak tree in front of the Town Hall. As stated above, no objections have been raised with regards to this proposal from the Borough Councils Landscape Officer, and detailed comments have been received regarding the loss of trees within the High Street (and in particular the aforementioned Oak tree), subject to trees of an species that would be expected within the locality, and that would survive within the environment being planted following their removal. The Landscape Officer has confirmed that the tree is semi-mature, and as such has the potential to grow further, which would lead to greater pressures in terms of maintenance and also, for disruption to the surface of the highway/pedestrian areas in the future. In my opinion it is often regrettable that trees are removed for the sake of development, and as such, it is important to mitigate fully against this loss. Clearly, in this instance, the applicant will not be able to replace the tree with one of equal size and stature, however, I am satisfied that the increased numbers of trees within the location, together with the species suggested, would ensure that the High Street will be maintained with a suitable level of soft

landscaping. In addition, it is the Landscaping Officer's opinion that there would be an overall benefit to the character of the area, on the basis that this would be well managed, with suitable species proposed, within a well considered layout. The trees would help to frame the building, and would also be located in areas that would benefit the end users – i.e. shoppers who may wish to sit under their shade (they are proposed to be located near to seating areas). The Landscape Officer concludes that the proposal would provide, in the long term, a more structured and sustainable scheme which is more appropriate to its setting than the existing landscaping within the town centre.

5.4.7 As stated above, it is proposed that new trees to be planted within the High Street (being six Hornbeam and eight Cherry trees), which would see an improvement in the soft landscaping within this area of public realm. In addition, the trees that are to be planted are species that are indigenous to the area, and reflect much of the character of the surrounding area. The trees that would be lost are currently located to the north-east of the Town Hall, along King Street, On the northern side of the High Street, and at the lower end of the High Street. Additional replacement trees would located in King Street (3), to the north-east of the Town Hall (3), and within the Lower High Street (8). These would be planted along a relatively regular axis, proving a tree lined 'avenue' effect alongside the proposed highway. This has two effects, firstly it ensures that there is soft landscaping visible throughout the whole development, and secondly, it would provide areas of shading for the three seating areas. In order to ensure a immediate effect of the landscaping, I have suggested the conditions set out below to ensure that firstly, they are of a suitable size, and secondly, they are replaced should they die, or be damaged, within the first ten years.

5.4.9 To conclude, whilst it is regrettable to see the loss of the existing trees, I consider that as there would be a more suitably managed and sustainable landscape scheme that at present, there would be an overall benefit to the character and appearance of the area.

5.4.10 This application also considers the implications of moving the cannon, with the erection of a new plinth. The cannon would be relocated from its existing position, within a lower High Street, closer to 64-65 High Street, Maidstone. The cannon plinth would be some 7.5metres away from these properties. It is proposed that utilities cabinets are also sited within this location, although these would turn their back on the cannon itself. The new plinth is to be constructed on a granite surface, with granite cladding on any vertical elevation. The plinth would step down to the west – towards the river. It would have an overall length of 19metres, with a maximum width of 5.7metres. Visually, the relocation of the cannon will make it a more prominent feature within the High Street. At present, it is in a relatively isolated, and inaccessible position, effectively located on a large traffic island. This existing setting does not give the cannon any real presence within the High Street, and as such it appears somewhat as a forgotten

item. The proposals will raise the profile of this feature, and would make it more prominent within the Town Centre. I see this as a positive contribution to the historic fabric of the High Street.

5.4.11 To conclude, I consider that the changes proposed would have a positive impact upon the character and appearance of the High Street. They would open up the space for pedestrian use, and would provide a better setting to a number of historic buildings. The additional trees planted would further soften the character and appearance of the High Street, and this, together with the additional hard landscaping, would provide a more pleasant area for future users. The alterations to the listed structures and monuments would give them a greater presence within the High Street, emphasising the historic elements of this area, and generating a more attractive setting. I therefore consider that the proposal would accord with the policies within the Development Plan in these respects.

5.5 Highways

5.5.1 The overall proposal would see significant alterations to the way in which traffic flows through the town centre of Maidstone, allowing only buses, taxis, disabled shoppers, and those entering for loading purposes into the High Street. However, the alterations of the traffic flow and the re-alignment of the highway are not for consideration as part of this planning application.

5.5.2 I therefore conclude that there would be no highway safety issues that would arise from the approval of this planning application, and as such, it complies with the policies within the Development Plan.

5.6 Disabled considerations

5.6.1 As set out above, the relocation of the 8 disabled parking spaces from the High Street does not require planning permission. Moreover, the works that require planning permission do not give rise to the relocation of these spaces, therefore the consideration of this planning application does not include this relocation. In any event, I can confirm that the proposal would result in the provision of 9 disabled parking bays within the High Street/King Street, which would not only be a net increase of 1 space, but would spread these spaces along the length of the High Street, make it more accessible than at present. It is noted that no objection has been raised by Kent County Council Highway Services with regards to the proposal. Furthermore, I have discussed this matter with the Highway Authority, who inform me that the matter of the disabled parking will be fully assessed as part of their Stage I Safety audit of the development prior to the commencement of works.

5.6.2 The alterations to the pedestrian crossing at the western end of the High Street would be provided with a shallow gradient ramp, which would allow for access

for all potential users. Furthermore, the alterations to the cannon would make it more accessible for all (although there would be steps up to the cannon, I do not consider the existing location any more accessible for the physically challenged), by virtue of the additional pedestrian space around this feature. With regards to the other proposals set out above, I do not consider that these would prove to make the High Street less accessible for any disabled users.

5.7 Other Matters

- 5.7.1 This proposal would not give rise to any detrimental impact upon the residential amenity of occupiers within the locality.
- 5.7.2 Changes to the street lighting within the High Street will form part of the highway works, and as such does not form part of this planning application.
- 5.7.3 Comments have been received from KCC Archaeology, who have requested a study be produced before the development commences. Due to the sensitive nature of the area – being of some historic importance, should permission be granted, I suggest a suitable condition be imposed.

6.0 CONCLUSION

- 6.1 The small number of changes to the High Street covered by this proposal (which forms part of an overarching plan for the redevelopment of the area) would be of an acceptable standard of design, and would reflect the remainder of the work taking place. These proposals would improve the appearance of the High Street, would provide an overall (long term) improvement in soft landscaping, and would provide a better setting for the existing monuments within the High Street. I therefore see no reason to refuse planning permission.

7.0 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 not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved

materials;

Reason: To ensure a satisfactory appearance to the development in accordance with PPS1 and PPS5.

3. No development shall take place until the applicant or their agent, or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification, which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with PPS5.

4. Any replacement tree which dies or becomes seriously damaged or diseased within ten years of being planted must be replaced with another of similar size or species within the course of the next planting season, unless the local planning authority give written consent to any variation;

Reason: In the interests of visual amenity in accordance with PPS1, Kent Design Guide, Policy BE1 of the South East Plan 2009 and Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

5. Any trees planted within the development hereby permitted shall be of a Heavy Extra Standard (14-16cm diameter and an overall height of at least 3.5metres) and shall be of the species as shown on the approved plans.

Reason: To ensure that the proposal is appropriately landscaped from the outset, responding to its important and public location, providing a high quality response to the design constraints, in accordance with PPS1 and the Kent Design Guide.

6. No development shall take place until the proposed means of surface water disposal from the elements of the overall scheme that require planning permission, have been submitted to, and approved in writing by the Local Planning Authority.

Reason: In the interests of ensuring a suitable method of surface water run-off, in accordance with PPS23.

7. No development shall take place until a method statement for the planting of the trees within the development hereby permitted has been submitted to, and approved in writing by the Local Planning Authority.

Reason: In the interests of the future health of the proposed trees, to ensure that the development has a high quality finish, in accordance with PPS1.

Informatives set out below

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at www.considerateconstructorsscheme.org.uk

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.



10

RE
CRO
SHOW



31.03.2010

C

QUA
VR
FLOO

&

MAIDST
TE

Let's



12.00 • CRICKET • 12.00
HOT & COLD
DELIVERY
tel: 01603 65700

POST
MENSNER

JESSOPS

Argos

31.03.2010

CLIFF



31.03.2010



31.03.2010

114

evans

31.03.2010

SSOPS

JD'S OPS
DIGITAL
PHOTOS

Argos

115

EXPRESS
DIGITAL
PHOTOS

FREE

31.03.2010



31.03.2010



31.03.2010

118

31.03.2010



TO LET

119

31.03.2010

120

31.03.2010



121



31.03.2010

122

31.03.2010

123

31.03.2010

BURGER

124

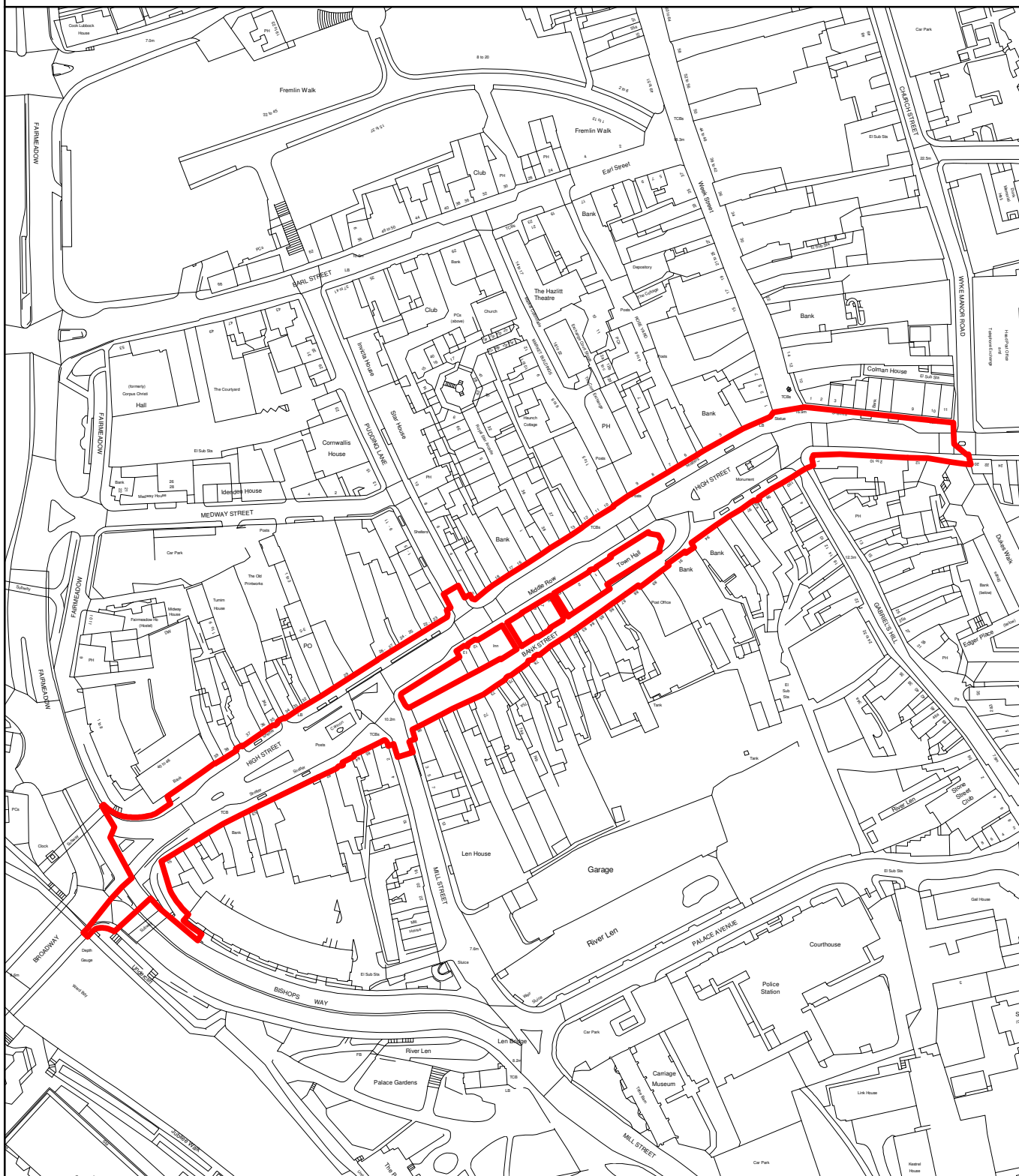
31.03.2010

Agenda Item 19

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0692 GRID REF: TQ7555/7655

TOWN CENTRE REDEVELOPMENT,
HIGH STREET, MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2010. Scale 1:2500



Rob Jarman
Head of Development Management

APPLICATION: MA/10/0692 Date: 23 April 2010 Received: 23 April 2010

APPLICANT: Mr John Foster

LOCATION: TOWN CENTRE REDEVELOPMENT, HIGH STREET, MAIDSTONE, KENT

PARISH: Maidstone

PROPOSAL: An application for listed building consent for the relocation of the cannon and its placement on a new plinth together with installation of lighting to illuminate the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto in accordance with High Street Lighting Proposal, Design and Access Statement, Design and Light Level Calculations, and drawing numbers 728-004; and tree measurement list submitted on 23 April 2010.

AGENDA DATE: 1st July 2010

CASE OFFICER: Chris Hawkins

The recommendation for this application is being reported to Committee for decision because:

- the Council is the applicant

1.0 POLICIES

Maidstone Borough-Wide Local Plan 2000: N/A
South East Plan 2009: BE6
Village Design Statement: N/A
Government Policy: PPS5

2.0 HISTORY

MA/10/0254 High Street and King Street, Maidstone. Planning application for the provision of new ramps, steps and landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge and the closure of one existing subway, relocation of the cannon and its placement on a new plinth, removal of 4no. existing Plane Trees and their replacement with 8no. Cherry and 7no. Hornbeam Trees, provision of illumination for the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto, together with other works including the

realignment and re-paving of carriageways and pedestrian areas and crossing points, the relocation of 'bus stops and shelters, taxi ranks, loading bays and disabled parking bays and the removal/relocation and/or provision of new street furniture including benches, lighting, leaning-posts, telephone boxes, removal of planters and shrubs and the relocation of the existing CCTV pole by the cannon. Withdrawn.

MA/10/0255 High Street and King Street, Maidstone. Application for listed building consent for the relocation of the cannon and its placement on a new plinth together with installation of lighting to illuminate the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto. Withdrawn.

2.0.1 There have been a significant number of other planning and listed building applications within the town centre, however, none of these are considered to be relevant in the determination of this planning application.

3.0 CONSULTATIONS

3.1 English Heritage have been consulted and advise that this application should be determined in accordance with the policies within the Development Plan and following the Council's 'in house' Conservation advice.

3.2 Kent County Council Archaeology were consulted and have raised no objections to this proposal subject to the imposition of a suitable condition requiring the provision of an archaeological assessment – a condition has been suggested within this report.

3.3 Maidstone Borough Council Conservation Officer was consulted and made the following comments: -

3.3.1 'This scheme is the result of a winning competition entry and wide negotiation and discussion and should result in a major enhancement of the Conservation Area. The lighting scheme will enable the buildings and spaces to be enjoyed at night in a dramatic way, and although in one or two cases this would result in quite a significant number of light fittings attached to individual buildings, the fittings themselves are small and should not impact unduly on the character of the buildings involved. The re-siting of the cannon and its new plinth will have no detrimental impact on its character and appearance and will enable it to take a more prominent position in the street scene – no objections.'

4.0 REPRESENTATIONS

- 4.1 No representations have been made with regards to this listed building consent. Although representations have been made about the overall scheme, these relate to the planning application. These are set out within the report for planning application MA/10/0691 elsewhere in these papers.

5.0 CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site covers the full length of the High Street from its junction with Fairmeadow, running up through the High Street to the junction of King Street and Wyke Manor Road. This covers a total of 1.2 hectares. The most westerly part of the application site forms part of the A229, at the junction of Fairmeadow and Bishops Way. This is a particularly well used highway, carrying significant volumes of traffic through the centre of Maidstone, linking the Medway Towns to the north and Hastings to the south. At present a subway runs beneath this road for pedestrian movements, as well as a pelican crossing at road level.
- 5.1.2 Eastwards, into the core town centre, the pavements follow the line of the existing buildings which splay out on the southern side, producing a wider central area, which currently houses a cannon. There are bus stops located on the southern side of the street, and a bus lane on the opposite side of the street running eastwards. The High Street at this point is lined by a mixture of buildings, some of significant age, whilst others are of a more recent construction.
- 5.1.3 A junction with Mill Street results in all through traffic being directed away from the main shopping centre. This is a traffic light controlled junction, with a pedestrian crossing linking into Bank Street. It is at this point that the shopping area effectively 'splits' into two distinct streets – Bank Street running to the south, and the High Street continuing on the northern side. There are small flower beds on the northern side of the High Street at the junction with Mill Street.
- 5.1.4 This area lies within the core of the Maidstone Conservation Area (this ends at the junction of the High Street and King Street, and at the western end of the High Street), and is fronted by a number of historically significant buildings, many of which contain historic shop-fronts or facades. The greatest concentration of listed buildings are clustered around the Upper High Street area and within Bank Street. This area also contains the Town Hall, a Grade II* listed building, which dates back to 1764. Bank Street contains many buildings dating from between 1500 and 1700, and is of significant historical importance. At

present, this road is part pedestrianised, with limited vehicular movements allowed (subject to time of day, deliveries etc.).

- 5.1.5 There are vehicular movements within the Town Centre at present – buses and taxis predominantly, as well as providing an element of disabled parking on street. There is a relatively wide pavement on the north side of the High Street at this point, which is relatively free of clutter.
- 5.1.6 To the north-east of the Town Hall is an open area, which contains the Queen Victoria statue, located centrally within the highway. This area has a cluster of bus stops on either side of the street and a central area set aside for waiting taxis. Pedestrian movements at this point of the street are limited to two narrow pavements on either side of the road (whilst not physically narrow, the siting of the bus stops makes them appear as such).
- 5.1.7 Further eastwards, and the character of the street changes significantly. There is a pedestrian crossing that links The Mall shopping centre and Week Street (this is constructed of pavers, denoting the change in its use), and beyond this, traffic controls which prevent private cars from entering the area from the east. This area is flanked predominantly by rather unremarkable buildings to the north, and the shopping centre to the south. Much of this area falls outside of the Conservation Area.
- 5.1.8 Overall, it can be seen that the site contains areas which vary significantly in their character, despite all being within the core town centre area.

5.2 Proposal

- 5.2.1 This application is for listed building consent for the lighting proposed on a number of listed buildings throughout the High Street (the precise details of which are set out later within this report). This lighting would be energy efficient and would be permanently attached to the buildings. These lamps would produce a white light, with the fixings being of the same colour of as each of the buildings, to reduce their visual impact. Metal Halide lights have been proposed as these are considered to produce the most suitable form of light for these listed buildings. The lighting strategy submitted sets out to provide three distinct zones – the east destination zone, west destination zone, and a main pedestrian route linking the two (a vehicular link is also proposed). It is proposed to encourage most of the pedestrian footfall to move along Bank Street between the two main 'zones' which would consist of mostly architectural façade lighting – much of which forms part of this application. The lighting strategy would see the highest levels of luminance at the lower end of the High Street. The proposed light levels plan show that much of this light would be approximately 50 lux, whereas the majority of Bank Street would be illuminated to around 6.25-12.50 lux.

5.2.2 The lighting would vary in size, ranging from 441mm in depth to 170mm in depth, depending on the lighting requirements, and the sensitivity of the building. The lights would range from 1Watt (uplighters located within the ground) to 70Watts (luminaire for lighting selected features and up-lighting facades). The lighting would be attached to the following Grade II listed buildings: -

- 100 High Street – lighting attached at eaves level;
- 97 High Street – lighting attached above second floor;
- 95-94 High Street – lighting above fascias and one down-lighter between second and third floor;
- 91 High Street – up-lighters within ground to front of building and above ground floor;
- 89-90 High Street - lighting between first and second floor;
- 88 High Street – lighting on side elevation above fascia;
- 86 High Street – up-lighters above fascia;
- 85 High Street – up-lighters above first floor bay window;
- 83-84 High Street – up-lighters above fascia;
- 82 High Street – up-lighting above fascia;
- 80-81 High Street – up-lighting above fascia;
- 79 High Street – up-lighting above fascia;
- 77 High Street – lighting above fascia;
- 76 High Street – lighting above fascia and removal of existing lighting;
- 74 High Street – lighting above fascia and removal of existing lighting;
- 73 High Street – lighting above fascia;
- 70 High Street – lighting above fascia;
- 69 High Street – lighting above fascia;
- 64 High Street – lighting above fascia and between first and second floor;
- Alleyway between 5-6 Middle Row – lighting within alleyway;
- Alleyway between 10-11 Middle Row – lighting within alleyway;
- 1 Middle Row – lighting above fascia;
- 18 High Street – lighting above fascia;
- 1 & 38 Royal Star Arcade – lighting above fascia and to illuminate sign;
- 3 High Street – lighting above ground floor level;
- 1 High Street/1 Week Street – lighting above fascia;
- 8 King Street – lighting at 2nd floor level;
- 1 Gabriel’s Hill – lighting at 2nd floor.

5.2.3 The lighting proposed to be located on Grade II* listed buildings is as follows: -

- Town Hall – up-lighters within ground to all elevations and between ground and first floor. Up-lighting on roof to illuminate dome;
- 78 High Street – lighting proposed under overhang, beneath second floor;

- 8-9 High Street – lighting above fascia, and beneath public footpath to Market Colonnade.

5.2.4 Lighting proposed on Queen Victoria statue: -

- Four up-lighters inside the monument
- Four up-lighters within the ground on two sides of the statue.

5.2.5 In addition, a new granite surround is proposed to be positioned around the statue, which is to be designed in collaboration with an artist.

5.2.6 This application also considers the implications of moving the cannon, with the erection of a new plinth. The cannon would be relocated from its existing position, within a lower High Street, closer to 64-65 High Street, Maidstone. The cannon plinth would be some 7.5metres away from these properties. It is proposed that utilities cabinets are also sited within this location, although these would turn their back on the cannon itself. The new plinth is to be constructed on a granite surface, with granite cladding on any vertical elevation. The plinth would step down to the west – towards the river. It would have an overall length of 19metres, with a maximum width of 5.7metres.

5.3 Impact upon Listed Buildings

5.3.1 As Members can see from the Agenda, a planning application has also been submitted for this site. The planning application addresses some of the physical changes to the High Street. In determining this listed building application the assessment shall consider the impact that the proposed lighting would have upon the listed buildings, and the proposed alterations to the cannon and statue.

5.3.2 Additional lighting around the Queen Victoria statue would provide additional interest in the structure, and also highlight it during the evening hours. No objections have been raised with regards to this proposal, and I consider this to be acceptable as it would not detract from the existing form of the statue, and would give greater emphasis to this important structure during the evening hours. Likewise, I consider that the new granite base around the statue would help ensure that it is suitably integrated into the remainder of the High Street improvements, whilst also being of a sufficient quality of material to reflect its importance. I therefore conclude that the proposed works to this structure will enhance its setting, and therefore comply with the objectives of Policy BE6 of the South East Plan (2009) and PPS5.

5.3.3 The lighting proposed on all of the listed buildings has been carefully designed by the applicant, and attempt to bring many of these high quality buildings into greater prominence within the street scene. As can be seen from the above, the Council's Conservation Officer has raised no objection to this proposal, as he

considers that the proposal would enhance the setting of the numerous listed buildings within the locality.

- 5.3.4 As stated above, I consider that the lighting upon the buildings has been carefully considered by the applicant. The submission shows that the lighting would be positioned in such a way as to minimise the impact upon the form of the listed buildings – i.e. often located directly above the fascia, or between floors – thereby not breaking up the natural rhythm of the properties, and would be directed so as to highlight the features of particular interest. For example within Bank Street, many of the buildings are particularly ornate, and the up-lighting would further highlight these details. Likewise, buildings with a strong vertical emphasis, would have lighting that reflects this characteristic – with light directed upwards, and often between the vertical elements.
- 5.3.5 The repositioning of the cannon would certainly improve its setting from its current situation. At present it is within a particularly isolated location, surrounded by vehicle movements, and is relatively inaccessible for pedestrians. As such, it becomes somewhat 'lost' within the townscape. This proposal would see it become a more prominent feature, that would encourage visitors to view it, and understand its historical context/importance. The plinth would be constructed of suitably high quality materials, and, as with the statue, reflect the character of the remainder of the High Street improvements.
- 5.3.6 Overall, I consider that the proposals put forward would enhance the character and appearance of the listed buildings within the High Street/King Street, with the holistic approach undertaken ensuring that the proposal would be delivered to a high standard. I therefore consider that the proposal is in accordance with PPS5 and Policy BE6 of the South East Plan (2009).

5.8 Other Matters

- 5.8.1 As this is a listed building consent, it is not appropriate to consider any planning matters as part of this application. I do not consider that there are any other issues that would affect the fabric, or setting of the listed buildings that require further discussion.

6.0 CONCLUSION

- 6.1 I therefore consider that this proposal would preserve, and in some instances enhance the setting and appearance of the listed buildings within the High Street, and as such the proposal complies with the policies within the Development Plan and PPS5. I therefore recommend that Members give this application favourable consideration propose that GOSE grant listed building consent subject to the conditions as set out below.

7.0 RECOMMENDATION

GRANT LISTED BUILDING CONSENT subject to the following conditions:

1. The works to which this consent relates must be begun before the expiration of three years from the date of this consent;

Reason: In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development and to preserve the setting of the adjacent listed buildings in accordance with PPS5.

Informatives set out below

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at www.considerateconstructorscheme.org.uk

Reason for Approval

The reason for granting this consent are that proposed works are considered to preserve the building/setting of the building and its special architectural and historic features.



THE LEASE
NEW FROM 2000
THE PREMIER SERVICE
OF YOUR LOCAL
MUSIC STORE

THE PREMIER SERVICE
OF YOUR LOCAL
MUSIC STORE

THE PREMIER SERVICE
OF YOUR LOCAL
MUSIC STORE

BN

Blue square sign with a white 'P' and a blue 'P' below it.

THE PREMIER SERVICE
OF YOUR LOCAL
MUSIC STORE

31.03.2010

135

Amip

79

31.03.2010

Sandersons

JP
020 7039 0130
2nd FLOOR OFFICES
TO LET / FOR SALE
0160 JL

133

31.03.2010

OFFICIAL BUSINESS MERCHANTS
PETER J. FAHY

SMILEY SNAPS

**PHOTO & DIGITAL
SPECIALISTS**

Queens Monument

MAIDSTONE

31.03.2010



138

THE GIFT OF
ALEXANDER RAMSELL
TO HIS COUNTRYMEN
1840

31.03.2010

139

British Heart Foundation

31.03.2010

140

31-03-2010





141

31.03.2010



31.03.2010

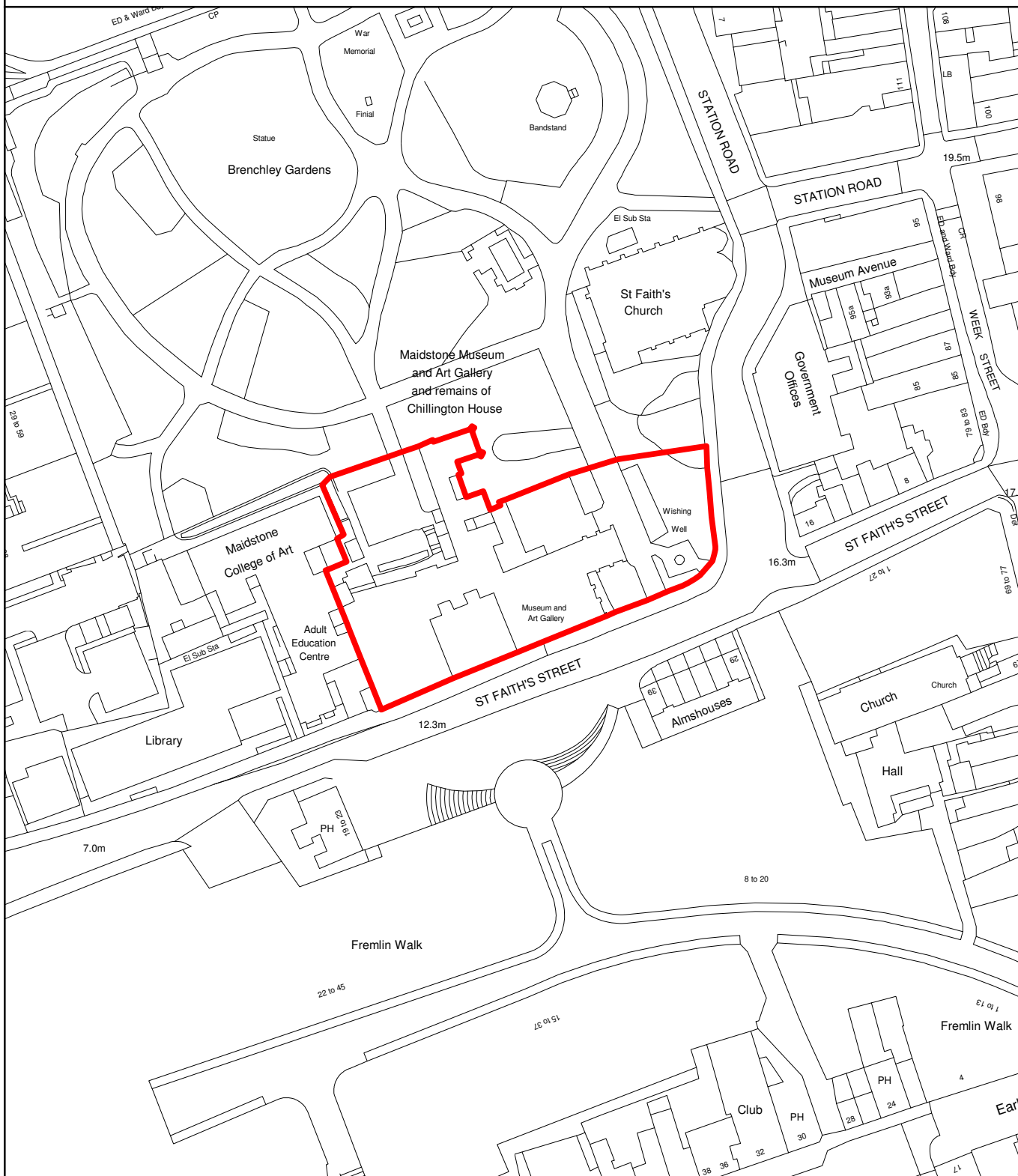


31.03.2010

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0883 GRID REF: TQ7555/7556

MBC MUSEUM,
ST FAITHS STREET, MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 1000019636, 2010. Scale 1:1250



Rob Jarman
Head of Development Management

APPLICATION: MA/10/0883 Date: 19 May 2010 Received: 21 May 2010
APPLICANT: MBC
LOCATION: MBC MUSEUM, ST FAITHS STREET, MAIDSTONE, KENT, ME14 1LH
PARISH: Maidstone
PROPOSAL: An application for advertisement consent for the installation of 4 non-illuminated poster signs and 2 directional signs as shown on a site location plan, elevations received on 21 May 2010 and block plan photograph received on 6 June 2010.
AGENDA DATE: 1st July 2010
CASE OFFICER: Janice Tan

The recommendation for this application is being reported to Committee for decision because:

- The Council is the applicant

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV8
South East Plan 2009: BE1, BE6
Village Design Statement: N/A
Government Policy: PPS5, PPG19

1. HISTORY

There is extensive planning history, the most recent and relevant being:

MA/09/0998 Amendment to MA/07/1366 (Redevelopment of Maidstone Museum east wing comprising of two/three storey extension, glazed atrium cafe and external landscaping) being replacement of proposed glazed atrium cafe with new display gallery and replacement of proposed hard landscape to forecourt with soft landscaping Approved with conditions

MA/09/0997 Amendment to MA/07/1365 (An application for listed building consent for redevelopment of Maidstone Museum east wing comprising of two/three storey extension, glazed atrium cafe and Approved with conditions

external landscaping) being replacement of proposed glazed atrium cafe with new display gallery and replacement of proposed hard landscape to forecourt with soft landscaping

2. CONSULTATIONS

- 3.1 **MBC Conservation Officer:** No objections to the temporary display of the adverts on the site hoarding during the construction works.

3. REPRESENTATIONS

- 4.1 No representations received

4. CONSIDERATIONS

4.1 Site Description

- 5.11 The application relates to an existing temporary construction hoarding that has been erected to screen the construction site for the development at the East Wing of Maidstone Museum. The hoarding does not require planning permission.

- 5.1.2 The hoarding is sited within the Chillington House Conservation Area and faces across St Faith's Street, the Grade II listed Almshouses. It is clearly visible from the public landscaped open urban space on St Faith's Street adjacent to Fremlins Walk.

5.2 Proposal

- 5.2.1 This is an application submitted by the Council. Advertisement consent is sought to fix four non-illuminated poster panels advertising the museum and two directional sign panels to the temporary construction hoarding. The application form makes it clear that consent is sought for their display until 1 September 2011.

- 5.2.2 Each panel would be 2.3m in width and 1.22m in height and mounted 1m from ground level, leaving margins above and below the advertisement panels. The colour of the text would be mainly orange and blue text on a white background reflecting the Council's corporate identity.

5.3 Assessment

- 5.3.1 Planning Policy Guidance 19, Outdoor Advertisements (PPG19) requires consideration to be given to visual amenity and public safety in considering applications for advertisement consent.

5.4 Visual amenity

- 5.4.1 In respect of visual amenity, the issues to consider are whether the proposed signs would cause visual harm to the surrounding area given that the signs are within a Conservation Area, adjacent to a Grade II* listed building and opposite the Grade II listed terrace block of Almshouses in residential use. The proposed signs are also clearly visible from the pedestrian access into Fremlins Walk and public open space opposite the Maidstone Museum, the eastern and western approach along St Faith's Street and the junction with Station Road.
- 5.4.2 The signs are of an appropriate size and scale in relation to the background hoarding on which they are fixed. The panels would not be excessively prominent and would not harm the character of the Conservation Area, the setting of the Grade II* Maidstone Museum building or the Grade II almshouses opposite. There will also be no adverse impact on the public landscaped area outside Fremlins Walk. The Conservation Officer has raised no objections.

5.5 Residential Amenity

- 5.5.1 The signs would be some 18m from the almshouses opposite. Given that the signs are non-illuminated and are of an appropriate scale in relation to the hoardings on which they are sited, I conclude that there would not be significant harm to the residential amenities of the occupiers of the almshouses.

5.6 Highways

- 5.6.1 The signs are on existing temporary hoardings. In this respect, they would not obstruct the footway nor harm pedestrian safety. The signs would also not in my view distract drivers using St Faith's Street or Station Road. The advertisements would not therefore be detrimental to highway or public safety.

5 CONCLUSION

- 6.1 The proposed advertisements would not harm the visual amenity or character of the surrounding area, the Conservation Area or nearby listed buildings. There would be no harm to residential amenity. The signage would also not be detrimental to either highway or pedestrian safety. These conclusions are further reinforced by the fact that consent is only sought for a temporary period until 1st September 2011. The proposals therefore are considered to comply with Development Plan policy and government guidance.
- 6.2 As the consultation period of the application does not expire until 1 July 2010, I recommend that delegated powers are given to grant advertisement consent subject to the expiry of the consultation period and the conditions as set out below.

6 RECOMMENDATION

Subject to the expiry of the consultation period I BE GIVEN DELEGATED POWERS to GRANT ADVERTISEMENT CONSENT subject to the following conditions:

1. The advertisements for which consent is hereby granted must be removed on completion of the construction site works, the removal of the construction hoarding or by 01 September 2011 which ever is the sooner;

Reason: In accordance with the provisions of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
(ii) No advertisement shall be sited or displayed so as to-
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
(iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
(iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
(v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In accordance with the provisions of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.



149

23.06.2010

150

MORGAN
SINDALL

23.06.2010

151

23.06.2010

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 01-07-10**

APPEAL DECISIONS:

1. MA/09/0131 -

Outline application for erection of a replacement bungalow with all matters reserved for future consideration as shown on A4 site location plan, A4 block plan, A3 proposed site location plan, A3 plans/front and rear elevation and A3 side elevations received on 30th January 2009.

APPEAL: DISMISSED and application for COSTS by Maidstone Borough Council were allowed

PHILJAN, YELSTED ROAD, YELSTED, STOCKBURY,
KENT, ME9 7XG

(Delegated Powers)

2. MA/09/0412-

Application for a lawful development certificate for an existing use being residential garden space a use which began more than 10 years before the date of this application

APPEAL: Allowed with Conditions

THE OAKS, LENHAM ROAD, KINGSWOOD, MAIDSTONE,
KENT, ME17 1LU

(Delegated Powers)

3. MA/09/1200 -

Minor amendments to design and proposed floor area of orangery extension approved under MA/08/2194 as shown on drawing number 09.12.11B and design and access statement received on 09/07/2009.

APPEAL: Allowed with Conditions

POLEHILL FARM, SCRAGGED OAK ROAD, DETLING,
MAIDSTONE, KENT, ME14 3HL

(Delegated Powers)

4. MA/09/1201-

An application for listed building consent for minor amendments to design and proposed floor

area of orangery extension approved under MA/08/2194 as shown on drawing number 09.12.11B and design and access statement received on 09/07/2009.

APPEAL: Allowed with Conditions

POLEHILL FARM, SCRAGGED OAK ROAD, DETLING, MAIDSTONE, KENT, ME14 3HL

(Delegated Powers)

5. MA/09/0115-

Change of use of laboratory to return to residential dwelling

APPEAL: Allowed with Conditions

BOLTONS COTTAGE, ROSE LANE, LENHAM, KENT, ME17 2JN

(Delegated Powers)

6. MA/09/1234-

Demolition of existing garage and erection of 3No. dwellings with creation of vehicular side access with associated soft and hard landscaping (Resubmission of MA/09/0299) as shown on drawing numbers 7981/A-00 Rev E, 7981/A-01 Rev E, 7981/A-01A Rev E, 7981/A-02 Rev E, 7981/A-03 Rev E, 7981/A-05 Rev E and 7981/A-06 Rev E received on 14/7/09.

APPEAL: DISMISSED

79, CHATHAM ROAD, MAIDSTONE, KENT, ME14 2LY

(Delegated Powers)

7. MA/09/1540-

Variation of Conditions 8 and 11 of MA/04/1503 (Change of use from agricultural land to recreational land and erection of a timber shed for use as changing rooms) to increase the permitted hours of use to Tuesday, Wednesday, and Thursday from 16:00 hrs until light permits and, to allow local teams from Bredhurst, Rainham, Hempstead, Walderslade, Boxley and Maidstone to use permitted facility.

APPEAL: PART ALLOWED/PART DISSMISSED

BREDHURST NURSERIES, DUNN STREET, BREDHURST,
GILLINGHAM, KENT, ME7 3ND

(Delegated Powers)

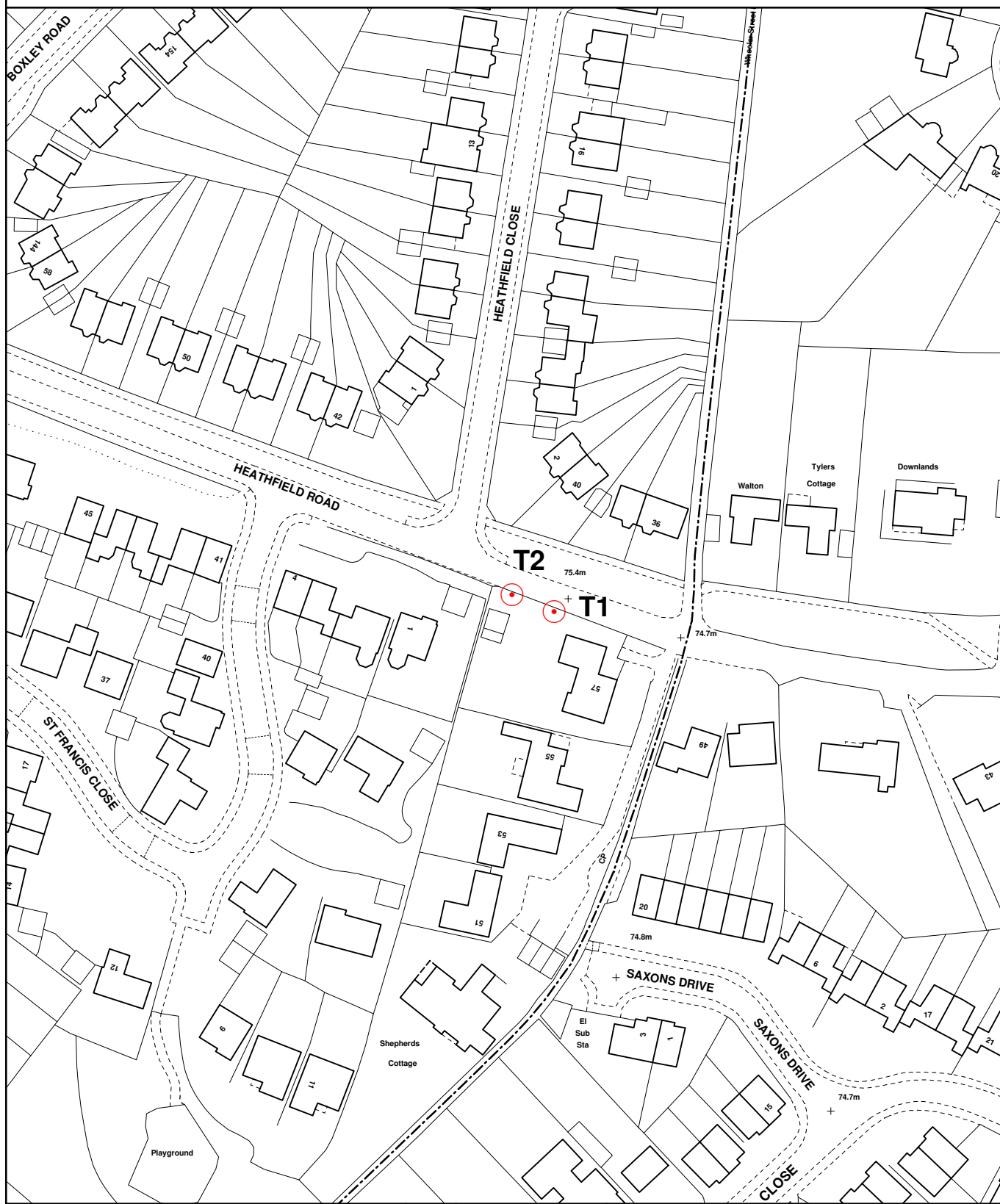
Agenda Item 22

THE MAIDSTONE BOROUGH COUNCIL

TREE PRESERVATION ORDER No. 3 of 2010

GRID REF: 576 157

TREES ON LAND AT NORTH LODGE,
57 HEATHFIELD ROAD, MAIDSTONE



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council Licence No. 100019636, 2010. Scale 1:1250



Michael Thornton
Head of Spatial Planning

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

1st July 2010

REPORT OF THE HEAD OF SPATIAL PLANNING

REFERENCE: Tree Preservation Order No. 3 of 2010 Date: 25th September 2010

TITLE: Trees on land at North Lodge, 57 Heathfield Road, Maidstone.

CASE OFFICER: Guy Stephens

Tree Preservation Order (TPO) No.3 of 2010 was made under section 201 of the Town and Country Planning Act 1990 to protect one Sycamore and one Lime tree. Two objections to the order have been received and the Planning Committee is, therefore, required to consider these before deciding whether the Order should be confirmed.

The recommendation on whether to confirm this TPO is being reported to Committee for decision because:

- 2 objections have been received

POLICIES

Maidstone Borough Council, Landscape Character Assessment & Landscape Guidelines, 2000

Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

BACKGROUND

History

On 24th March 2010 Landscape Officers became aware of an outline application, MA/10/0148, for a detached two storey dwelling with access and layout for consideration. At a site visit the Landscape Officer noted two mature trees along the frontage of Heathfield Road on a raised bank; one Lime and one Sycamore. In order to facilitate the access drive it would be necessary to remove the Lime tree. As a result, it was considered expedient to protect the trees by the making of a TPO.

The grounds for the making of the order were stated as follows: -

The Sycamore and Lime trees are mature, healthy specimens prominent from Heathfield Road, making a valuable contribution to the character and amenity of

the area. The trees are considered to be under threat due to application MA/10/0148, which would result in the removal of the Lime to facilitate a driveway and potential additional stress to the Sycamore which could result in its premature removal. Therefore, it is considered expedient to make both trees the subject of a Tree Preservation Order.

The Section 201 direction bringing the order into immediate effect expires on 25th September 2010

OBJECTIONS

The TPO was served on the owner/occupier of the land in question and any other parties with a legal interest in the land.

Two objections have been received to the order, within the statutory 28 day period from its making as follows:

1. From the owner of North Lodge, Heathfield Road. The full text of the objection is attached to this report as **Appendix A**.

The grounds of the objection are summarised as follows: -

- According to the tree survey carried out by Tom la Dell the Lime tree was identified as not being in good health due to extensive epicormic shoots, severe crown dieback, and, to the observer, there are many obviously rotten branches.
2. From Sibley Pares, Chartered Surveyors. The full text of the objection is attached to this report as **Appendix B**.

The grounds of the objection are summarised as follows: -

- The Lime should not be included within the TPO as it has, according to the Tree report, been identified as dying back and its removal is recommended.
- There is some surprise that the TPO failed to observe the contents of the tree report as it is stated within the fourth paragraph of the Order that the trees are healthy specimens which is clearly not the case.

CONSIDERATIONS

SITE AND SURROUNDINGS

Both trees are mature and are located on a raised bank which fronts onto Heathfield Road. They are part of a belt of mature, predominantly deciduous trees on the southern side of Heathfield Road which helps create a green feature within the urban setting. It is important to note that presently there is an existing TPO, TPO No 2 of 2000, which includes 22 individual trees and 8 groups of trees throughout the site. One of the protected groups, G4, which comprises

of 6 Sycamores is on the boundary of where the proposed dwelling is to be located.

DESCRIPTION OF TREES

Both trees are mature and of natural shape and have similar dimensions; the stem diameters being 800mm and measuring 19 metres in height. A tree survey was carried out by Tom La Dell on behalf of the applicant in accordance with BS 5837:2005 to assess the condition of the trees on site and identify their Root Protection Area. The Sycamore is classified as category A, high quality, whilst the Lime is graded 'C', low quality. Both trees are noted as having various defects, for example, there was short twig extension within the Sycamore canopy and the Lime showed signs of crown dieback and epicormic growth at its base. Due to their age and location it is reasonable to assume that both trees will naturally exhibit various deficiencies. However, the grading afforded to both trees is considered, by the Landscape Officer, to be inconsistent.

LEGAL CONTEXT

Local Planning Authorities (LPAs) may make a TPO if it appears to them to be:

'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees should therefore normally be visible from a public place, such as a road or footpath. The benefit may be present or future. It is, however, considered inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the following key criteria:

- (1) visibility
- (2) individual impact
- (3) wider impact

Officers use an amenity evaluation assessment form based on Government guidance and an industry recognized system which enables Arboricultural Officers to make an objective decision on whether trees fulfill the criteria for protection under a TPO.

However, although a tree may merit protection on amenity grounds, it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural management. It may, however, be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate.

RESPONSE TO OBJECTION/S

The responses to the principle points of objection set out above are as follows:-

Mr Bone, 57 North Lodge, Heathfield road, Maidstone, Kent.

- The Landscape Officer undertook a site visit in March, when there were no leaves on the trees, to carry out an amenity evaluation. He noted that there was minor dead wood throughout the canopies of both trees. This is not necessarily a sign that the tree is in decline and is a common characteristic within a number of tree species including Lime.
- It is important to establish the significance of dead wood, failure to carry this out could result in the extensive crown reduction or in the worst case complete removal, unnecessarily.
- The fact that epicormic growth is present is, again, not usually a sign of poor health. Epicormic growth, which arises from dormant buds found the main stem, is activated when limbs are removed.

Sibley Pares, Chartered Surveyors.

- As stated above the appearance of deadwood is not necessarily a sign that the tree is in decline but an indication that the tree has not been managed.
- In my view there is no evidence to suggest the trees are particularly unhealthy as the report does not identify any specific defect which would suggest that the tree will fail imminently. Therefore, the TPO has been made correctly.

CONCLUSION:

Following his initial inspection, the Landscape Officer carried out a further assessment of both trees in June when they had full leaf cover. It should be noted that the Lime had a full crown and good shoot extension, which is a sign that it is a healthy tree. The crown of the Sycamore was more sparse, but there is no other indication that it is unsound. Ideally it should be monitored on a regular basis and if other symptoms of poor health become more visible then an application for appropriate tree work can be submitted.

For the reasons set out above it is considered that:

There are no grounds of objection above which are sufficient to throw the making of the Order into doubt.

RECOMMENDATION:

CONFIRM WITHOUT MODIFICATION Tree Preservation Order No. 3 of 2010

BACKGROUND DOCUMENTS:

406/100/331- TPO No. 3 of 2010

Appendix A

Team Leader
 Landscape
 Conservation & Design
 Maidstone Borough Council
 Maidstone House
 King Street
 Maidstone
 Kent
 ME15 6JQ

J.L.Bone
 North Lodge
 Heathfield Road
 Maidstone
 Kent
 ME14 2AD

P.F. Correspondence?	
REF:	
19 APR 2010	10/21
CHG. DET. 2	
DRAWER	

April 15th 2010

Re: TPO No: 3 of 2010

Dear Sir

Thank you for your TPO notification of 25th March.

As you are probably aware the trees were included in a survey conducted by Tom La Dell submitted as part of planning application MA/10/0148.

The Lime tree in the corner which you designate T2 was identified in the survey as not being in good health, including extensive epicormic shoots, severe crown dieback and to the observer there are many obviously rotten branches.

I would be most grateful if you could indicate by return why you wish to place a TPO on a tree in such a questionable state.

Yours faithfully

Julian Bone

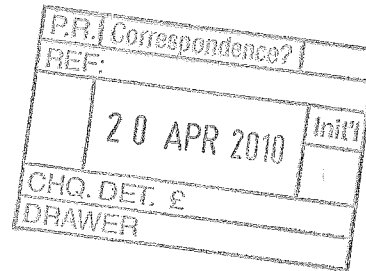


Regulated By RICS

Appendix B.


Sibley Pares
 CHARTERED SURVEYORS

Team Leader
 Landscape Conservation and Design
 Maidstone Borough Council
 Maidstone House
 King Street
 Maidstone
 Kent ME15 6JQ



Our Ref: CS/JCP

19th April 2010

Dear Sir

**Re: Tree Preservation Order No 3 of 2010 –
 Trees on Land at North Lodge, 57 Heathfield Road, Maidstone, Kent**

We refer to your Notice dated 25th March 2010 enclosing a copy of the above Order and formally object to this Order before the Order is made permanent.

Our objection to the Order is in particular relating to T2 being a Lime tree contained within the Order and we attach a copy of a Tree Report prepared by Tom La Dell Chartered Landscape Architect which was submitted at the time of the recent Planning Application confirming that this particular tree was dying back and its removal recommended.

It is with some surprise that whoever prepared the Tree Preservation Order failed to observe the contents of this Report as clearly the covering comment within the fourth paragraph of the Order which states that the trees are healthy specimens is clearly not the case.

We trust that the Order will be revised accordingly before being made permanent.

Yours faithfully



Colin Smith FRICS
 Sibley Pares Chartered Surveyors

cc. Dr J Bone

1 Ashford Road, Maidstone, Kent ME14 5BJ
 Tel: (01622) 673086 Commercial • Tel: (01622) 692206 Residential • Tel: (01622) 691567 Management
 Fax: (01622) 690243 • Email: property@sibleypares.co.uk • Web: www.sibleypares.co.uk



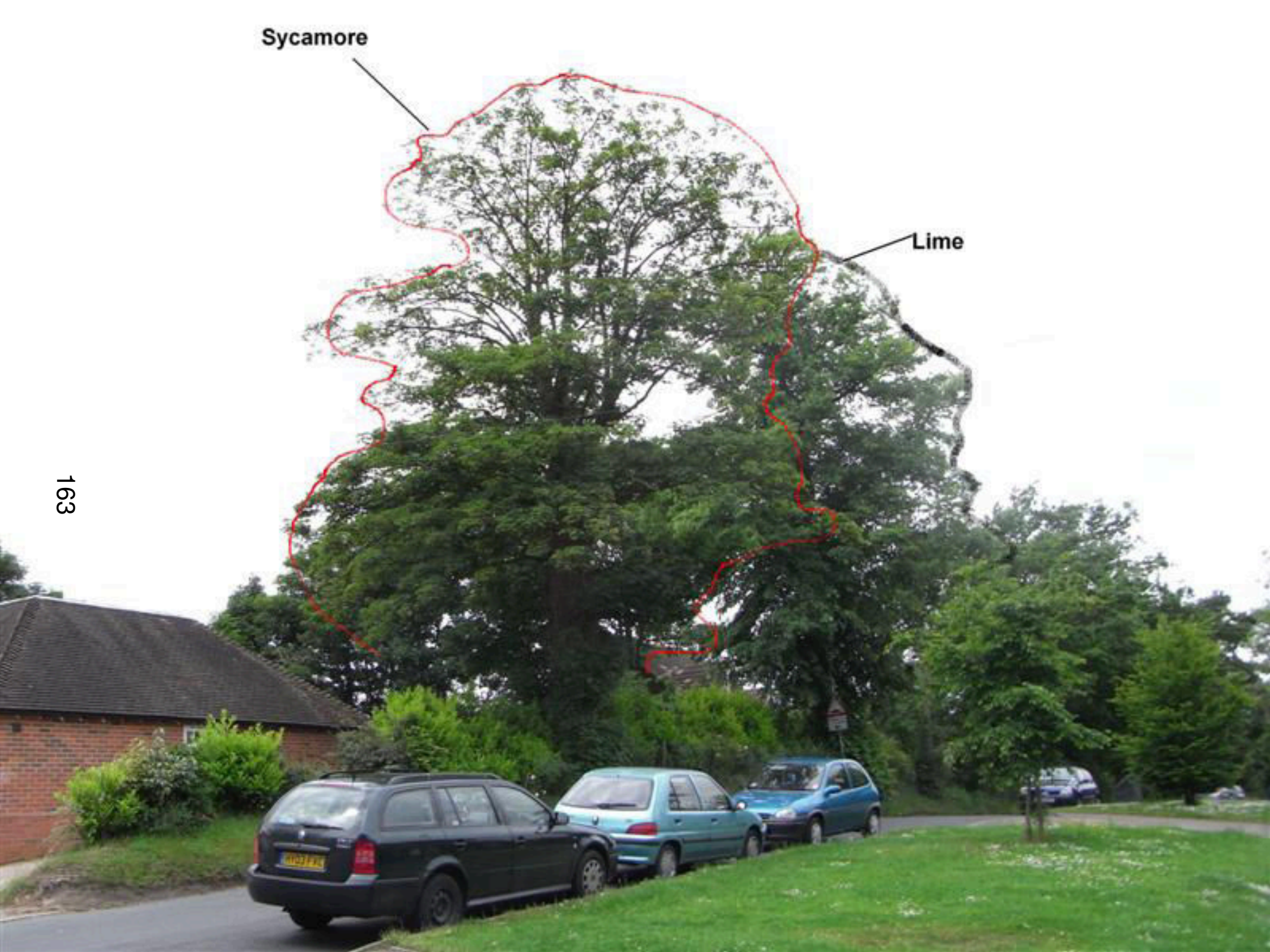
Directors: David Pares, MRICS • Brian Matthews, MRICS MBEng • Colin Smith, DMS FBEng MCIOB FNAEA • Sarah Raggett, BSc (Hons) MRICS
 Associate: Phillip Hubbard BA (Hons) PGDipSurv • V.A. No. 624 9045 41 • Sibley Pares Chartered Surveyors is the trading name of Sibley Pares Limited

Registered in England & Wales. Registration No. 6306194. Registered Office: 1 Ashford Road, Maidstone, Kent ME14 5BJ

Sycamore

Lime

163



Sycamore
- note
sparse
crown

Lime tree

164



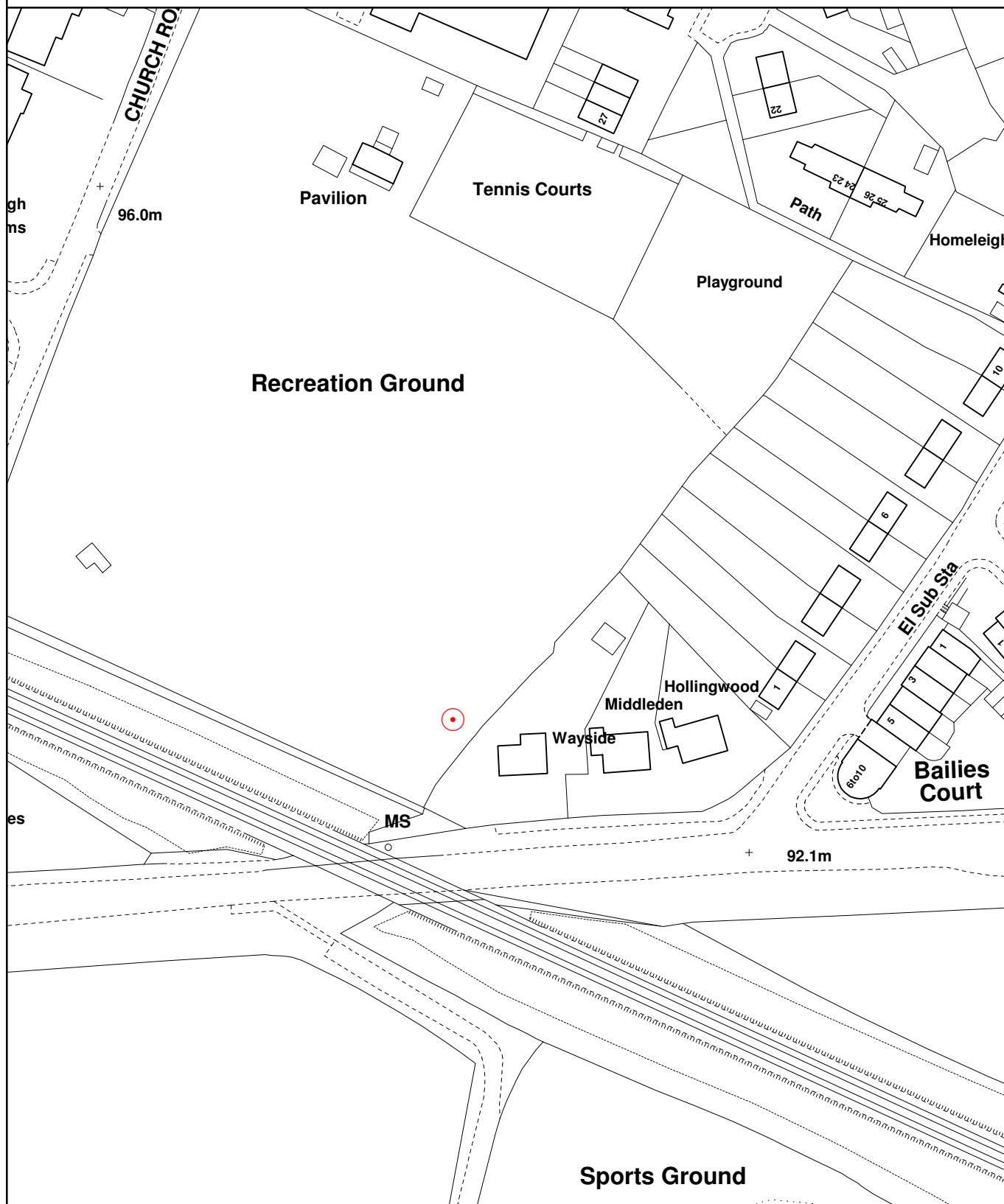
Agenda Item 23

THE MAIDSTONE BOROUGH COUNCIL

TREE PRESERVATION ORDER No. 2 of 1997

REFERENCE: TA/0052/10

WAYSIDE, ASHFORD ROAD,
HARRIETSHAM



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council Licence No. 100019636, 2010. Scale 1:1250



Michael Thornton
Head of Spatial Planning

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

Agenda Date: 1st July 2010

REPORT OF THE HEAD OF SPATIAL PLANNING

REFERENCE: TA /0052/10

Date: 04/05/2010

APPLICANT: OCA UK Ltd, 4 The Courtyards, Wyncolls Road, Colchester, Essex, CO4 9PE

LOCATION: Land adjacent Wayside, Ashford road, Harrietsham, Maidstone, ME17 1BH

PROPOSAL: To fell one Beech tree and treat one stump subject to Tree Preservation Order No 2 of 1997, situated adjacent to 'Wayside'.

CASE OFFICER: Guy Stephens

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to views expressed by Harrietsham Parish Council.

POLICIES

- South East Plan, 2006, Policy C4: Landscape & Countryside Management
- Maidstone Borough Council, Landscape Character Assessment & Landscape Guidelines, 2000
- Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

PLANNING HISTORY

TA/0195/09 – Land adjacent to Wayside- an application to fell one Beech tree and treat one stump subject to Tree Preservation Order No 2 of 1997 – an appeal for non-determination was lodged on 22 February 2010. Planning Committee, on 18 March 2010, resolved that it would have granted consent had an appeal not been submitted.

TA/0132/07 – Booth Field, Church Road, Harrietsham- an application for consent to remove and treat stump of one Beech tree- refused.

TA/0025/04 – Booth Field, Church Road, Harrietsham- an application to remove 2 lowest branches of 1 no Lime, trim lower branches of 1 no Lime to clear corner of pavilion and crown lift 5 no trees – approved/granted with conditions.

CONSULTATIONS:

Harrietsham Parish Council: wishes to see the planning application refused due to the high amenity value of the tree. However, if the Landscape Officer's view is different, the Parish Council wish to be consulted regarding the replacement tree.

REPRESENTATIONS

None

CONSIDERATIONS

ISSUE FOR DECISION:

The applicant made an appeal (APP/TPO/U2235/1090) to the Secretary of State, under section 78 of the Town and Country Planning Act 1990 (as amended) on 22 February 2010 for non-determination of application, TA/0195/09. They requested that the appeal be dealt with by means of a hearing.

The Planning Committee, at its meeting on 18th March, resolved that it would have granted consent for the application, with amended conditions, had an appeal for non-determination not been submitted. It also agreed, as a consequence, that the appeal should not be defended. A copy of the original report and the associated minutes are attached to this report as **Appendix A**.

As a result, the applicant, OCA, considered that the timescale for getting the case formally determined could be reduced by submitting an identical application to that subject to the appeal, which could then be decided by the Council. The Committee is not bound by its previous view and, on consideration of the facts now being reported, can change its decision, although it should be reiterated that the reasons for the work and the considerations are essentially the same as those originally reported. In the meantime, OCA requested to the Planning Inspectorate that the current appeal be placed in abeyance whilst the new application is considered and a decision issued.

SITE AND SURROUNDINGS

The tree in question is a mature Beech tree situated on the south western boundary on Booth Field and protected by TPO No 2 of 1997 along with the seventeen mature trees on the playing field. Within this group there is a mixture of Sycamore, Plane, Horse Chestnut, Lime and Corsican Pine, all of which enhance the area and are prominent from many public viewpoints.

DESCRIPTION OF TREE AND PROPOSED WORKS.

The mature Beech tree is 23 metres in height, with a stem diameter of 980 mm and an average radial crown spread of 8 metres. It is natural in shape with multiple scaffold branches forking at 5 metres. Minor deadwood was noted throughout the crown, although this is a common feature for a tree of this age. The bud size and extension growth was noted as being healthy.

An investigation has been carried out to establish the cause of alleged damage to the adjacent property, 'Wayside'. The application to fell the tree included an engineering report which concluded that the damage is a result of subsidence caused by tree root action which can be attributed to the nearby Beech tree. The report provides technical evidence such as level monitoring, soil and root information to support this claim.

LEGAL CONTEXT

In considering applications the (Local Planning Authority) LPA:

- assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area, and
- in the light of the amenity assessment, consider whether or not the proposal is justified, having regard to the reasons put forward in support of it.

It also considers whether any loss or damage is likely to arise if consent is refused or granted subject to conditions. In general terms, it follows that the higher the amenity value of the tree or woodland and the greater the impact of the application on the amenity of the area, the stronger the reasons needed before consent is granted.

The LPA's consent is not required for cutting down or carrying out work on trees so far as may be necessary to prevent or abate a nuisance. The term 'nuisance' is used in a legal sense, not its ordinary everyday sense.

For TPOs made before 2 August 1999, when refusing or granting consent subject to conditions, the LPA may issue an 'article 5 certificate'. It may only be issued if the LPA are satisfied:

- that their decision is in the interests of good forestry, or
- that the trees, groups of trees or woodlands to which the certificate relates have an 'outstanding' or 'special' amenity value.

In simple terms the effect of an article 5 certificate is to remove the LPA's liability under the TPO to pay compensation for loss or damage caused or incurred as a result of their decision.

LPA's are advised to use article 5 certificates with discretion and not simply as a means of avoiding the potential liability of compensation. The LPA should consider each case on its merits and must, when issuing a certificate, be satisfied that their decision is in the interests of good forestry, or that the trees, groups of trees or woodlands have an 'outstanding' or a 'special' amenity value.

CONTRIBUTION TO AMENITY

Although there are a number of other trees within the Booth Field the Beech tree is the most prominent and its removal would be detrimental to the character of the local area. All the trees in this area are situated in a parkland setting and have been able to grow in their natural form. The Council's amenity evaluation assessment gives an amenity value rating (AVR) of 20, which is clearly above the benchmark of 17, but it is not considered an 'outstanding' or 'special' tree and, therefore, an article 5 certificate could not be issued.

ASSESSMENT OF CASE

The evidence provided by OCA indicates that the damage which 'Wayside' is experiencing is attributed to soil desiccation causing a downward rotational movement of the rear left hand side corner of the property.

In cases where it is suspected that trees may be the primary cause of the damage there are three pieces of evidence which are essential, these are:

1. Evidence of soil desiccation
2. Proof of seasonal movement
3. Live roots have been found underneath the foundations.

In this case all the necessary evidence has been submitted to support the claim that the cause of the damage, albeit relatively minor, can be attributed to the tree root action.

The Beech tree is of significant amenity value and its removal would have a detrimental effect on the character and amenity of the surrounding area. It would normally, therefore, be preferable to retain the tree by using alternative engineering solutions such as root barriers. However, any such solutions would mean that the roots would have to be partially severed, therefore, making the tree unstable.

A second option would be to reduce the crown, therefore reducing the amount of water it extracts from the soil. However recent studies have shown that to have any impact on soil moisture, severe crown reduction of 70%-90% would have to be carried out. This would result in the Beech tree being severely disfigured and, furthermore, the removal of such a large amount of living tissue would quite probably result in the decline of the tree.

It should be noted though that if consent is granted for the Beech to be felled it may result in heave, which can cause damage to structures. It occurs when clay starts start to absorb more water than it was able to beforehand and therefore it expands. This could, in theory, occur if this Beech is removed. However, it is

important to note that the engineers acting for the applicant, OCA, have ruled out the possibility of this happening. But it is recommended that there is an informative attached to any consent to the effect that the landowner should satisfy himself that there is not a possibility of heave and, if there is, take necessary steps to minimise the potential impact, such as phasing the work.

Potential Costs

Appeal Costs

Whilst this application is not subject to the appeal for non- determination of the previous application it will, no doubt, be a consideration should Committee refuse the application and the appeal be restarted.

With regard to appeal costs, generally each party meets their own but an application can be made against another party for wasted expense caused by unreasonable actions. There is no appeal fee in this case and little work will have been accrued prior to the stage when actions in the appeal timetable would have to be carried out. If there were an application for costs the Council has not acted unreasonably, therefore any claim would be defended. If Members decide to grant consent then the applicant would be likely to withdraw the appeal and each party should meet their own costs.

Compensation

In terms of compensation the position is more complex but in this case the TPO does make provision for compensation for loss/damage caused or incurred as a consequence of the refusal of any consent. One issue that could arise is that loss or damage may not be incurred as a consequence of refusal if no consent were required at all, as in the case of a statutory exemption for nuisance under s198 (6), see above. If that were not the case then any compensation liability would arise from the date of the deemed refusal. Only damage caused by the tree roots after the date of deemed refusal would be relevant except in so far as it could be evidenced that the refusal had necessitated more costly works than would have been needed if consent were given. The liability for compensation would only accrue if the Inspector goes on to refuse the appeal.

In this case if the cause of the damage is not removed then an alternative solution would have to be sought, for example, if the Beech tree is not removed the foundations of 'Wayside' would have to be underpinned.

A breakdown of the cost of structural works has been submitted by the appellant showing the difference between the tree being retained or removed.

If the tree is retained then the cost for carrying out major works to the property has been estimated between £56k-£71k due to major disruption to the policy holder; whereas, if the tree is removed, the works will be kept to a minimum and the costs have been estimated between £12k -£15k.

CONCLUSION:

The applicant has essentially submitted an identical application to TA/0195/09, based on the same reasons and containing the same evidence. Therefore, the original conclusion that, whilst the Beech tree has an important amenity value and the proposed work would have an adverse impact on amenity of the local area it is considered to be the only option in regard to the reasons put forward by the applicant in support of the application, remains unchanged.

The proposed conditions have, however, been amended from the original recommendation to reflect the Committee's resolution that the cordwood be stacked on the Booth Field and not removed from site and that the replacement tree be of a more mature size. The Parish Council's concern that it wishes to be consulted over the replacement tree been addressed in condition C203.

RECOMMENDATION:

GRANT CONSENT to fell one Beech tree and treat one stump subject to Tree Preservation Order No 2 of 1997 subject to the following conditions and informatives:

Conditions

C195 (amended) Provision for securing wildlife habitats

A proportion of the cordwood above 20cm in diameter shall be retained and stacked safely on site for the colonization of saproxylic fungi. All other brushwood and arisings shall be disposed of to leave the site in a safe and tidy condition;

Reason: In the interests of biodiversity and good arboricultural/forestry practice.

C196 Standard of Works (Trees)

All works hereby permitted shall be carried out in accordance with the provisions of BS 3998 (1989) "Recommendations for Tree Work" by a competent person only;

Reason: In the interests of amenity and good arboricultural practice.

C202 Replacement Planting (Heavy Nursery Standard)

One replacement Beech tree (*Fagus sylvatica*) of not less than Heavy Nursery Standard size (12-14cm girth, 3.6-4.25m height), conforming to the specifications of BS 3936 Part I "Nursery Stock", shall be planted during the tree planting season (October to February) following substantial completion of the felling hereby permitted, and be maintained thereafter to the satisfaction of the local planning authority.

Reason: In the interests of amenity and good arboricultural practice

C203 Replacement Planting (Specified Location)

The replacement tree(s) as specified shall be planted at the location(s) described below in accordance with the advice contained within the attached guidance notes;

The replacement tree should be planted in a prominent position in Booth Field subject to the agreement of the Booth and Baldwin Charity and Harrietsham Parish Council.

Reason: In the interests of amenity and good arboricultural practice

C206 Replacement Planting (Maintenance)

Any replacement tree which dies or becomes seriously damaged or diseased within five years of being planted must be replaced with another of similar size or species within the course of the next planting season, unless the local planning authority give written consent to any variation;

Reason: In the interests of amenity and good arboricultural practice

Informatives

- It is recommended that the landowner should satisfy himself that there is not a possibility of heave and, if there is, take necessary steps to minimise the potential impact, for example through phasing the work.
- Owner Consent

This decision does not override the need for the applicant to obtain the consent of the tree owner before commencing the work granted consent.

- Provision for birds and bats

In taking the action specified in this Notice, special care should be taken not to disturb wild animals that are protected by the Wildlife and Countryside Act 1981, the Countryside and Rights of Way Act 2000 and the Conservation Regulations 1994. This includes birds and bats that nest or roost in trees.

Background documents:

TA/0195/09: Land adjacent Wayside, Ashford Road, Harrietsham

406/115/12: TPO No 2 of 1997, Trees on Booth Field, Church Road, Harrietsham

Appendix A

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

Agenda Date: 18 March 2010

REPORT OF THE ASSISTANT DIRECTOR OF DEVELOPMENT AND COMMUNITY STRATEGY

REFERENCE: TA /0195/09

Date: 09/12/09

APPLICANT: OCA UK Ltd, 4 The Courtyards, Wyncolls Road, Colchester, Essex, CO4 9PE

LOCATION: Land adjacent Wayside, Ashford road, Harrietsham, Maidstone, ME17 1BH

PROPOSAL: To fell one Beech tree and treat one stump subject to Tree Preservation Order No 2 of 1997, situated adjacent to 'Wayside'.

The applicant made an appeal (APP/TPO/U2235/1090) to the Secretary of State, under section 78 of the Town and Country Planning Act 1990 (as amended) on 22 February 2010 and the application will therefore be determined by the Planning Inspectorate. It is now necessary for the Council to consider how it will respond to the appeal.

CASE OFFICER: Guy Stephens

The recommendation for this case is being reported to Committee for decision because:

- It is contrary to views expressed by Harrietsham Parish Council on the original application.

POLICIES

South East Plan, 2006, Policy C4: Landscape & Countryside Management
Maidstone Borough Council, Landscape Character Assessment & Landscape Guidelines, 2000

Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

PLANNING HISTORY

TA/0132/07 – Booth Field, Church Road, Harrietsham- An application for consent to remove and treat stump of one Beech tree- refused.

TA/0025/04 – Booth Field, Church Road, Harrietsham- An application to remove 2 lowest branches of 1 no Lime, trim lower branches of 1 no Lime to clear corner of pavilion and crown lift 5 no trees – approved/granted with conditions.

CONSULTATIONS:

Harrietsham Parish Council: recommend refusal of the planning application, due to the high amenity value of the tree.

Booth and Baldwin Charity, Harrietsham own the field where the tree is located. The trustees held a meeting and it was agreed that they could not comment on this matter as the owners of Wayside, whose property is affected by the tree root action, are themselves trustees. However, it was the unanimous view that the trustees would not object if permission was granted for the tree to be felled. The trustees also wish to seek assurances they will not be liable for any future costs should the property experience any future damage such as heave. They also wish to seek a replacement tree.

REPRESENTATIONS

Owners of Wayside: A letter was received which confirmed where the damage is occurring and requested that the Beech tree is removed.

CONSIDERATIONS

ISSUE FOR DECISION:

To seek members views on what their decision would have been had an appeal for non-determination not been submitted and what steps to take in response to the appeal as a result.

The application was made on 9th December 2009. The case was subject to a number of delays arising from a meeting request from the applicant, which had to be postponed on a number of occasions due to snow and the need to await representations from the parties involved. This subsequently resulted in the requirement for a report to Planning Committee. The Council's 8 week date for determination expired on 2 February 2010 and on 11 February Officers received from the applicant notification of their intention to appeal and potentially claim for costs. The report drafted for the earliest Committee meeting, 25 February 2010, was as a result withheld from the agenda to ensure that the recommendations and considerations were amended to take account of the appeal and cost implications. It is important that members make a decision at the earliest opportunity prior to the date for statement of case so that PINS can be notified as soon as possible how the Council propose to deal with the appeal.

SITE AND SURROUNDINGS

The tree in question is a mature Beech tree situated on the south western boundary on Booth Field and protected by TPO No 2 of 1997 along with the

seventeen mature trees on the playing field. Within this group there is a mixture of Sycamore, Plane, Horse Chestnut, Lime and Corsican Pine, all of which enhance the area and are prominent from many public viewpoints.

DESCRIPTION OF TREE AND PROPOSED WORKS.

The mature Beech tree is 23 metres in height, with a stem diameter of 980 mm and an average radial crown spread of 8 metres. It is natural in shape with multiple scaffold branches forking at 5 metres. Minor deadwood was noted throughout the crown, although this is a common feature for a tree of this age. The bud size and extension growth was noted as being healthy.

An investigation has been carried out to establish the cause of alleged damage to the adjacent property, 'Wayside'. The application to fell the tree included an engineering report which concluded that the damage is a result of subsidence caused by tree root action which can be attributed to the nearby Beech tree. The report provides technical evidence such as level monitoring, soil and root information to support this claim.

LEGAL CONTEXT

In considering applications the (Local Planning Authority) LPA should:

- assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area, and
- in the light of the amenity assessment, consider whether or not the proposal is justified, having regard to the reasons put forward in support of it.

It also considers whether any loss or damage is likely to arise if consent is refused or granted subject to conditions. In general terms, it follows that the higher the amenity value of the tree or woodland and the greater the impact of the application on the amenity of the area, the stronger the reasons needed before consent is granted.

The LPA's consent is not required for cutting down or carrying out work on trees so far as may be necessary to prevent or abate a nuisance. The term 'nuisance' is used in a legal sense, not its ordinary everyday sense.

For TPOs made before 2 August 1999, when refusing or granting consent subject to conditions, the LPA may issue an 'article 5 certificate'. It may only be issued if the LPA are satisfied:

- that their decision is in the interests of good forestry, or
- that the trees, groups of trees or woodlands to which the certificate relates have an 'outstanding' or 'special' amenity value.

In simple terms the effect of an article 5 certificate is to remove the LPA's liability under the TPO to pay compensation for loss or damage caused or incurred as a result of their decision.

LPAs are advised to use article 5 certificates with discretion and not simply as a means of avoiding the potential liability of compensation. The LPA should consider each case on its merits and must, when issuing a certificate, be satisfied that their decision is in the interests of good forestry, or that the trees, groups of trees or woodlands have an 'outstanding' or a 'special' amenity value.

CONTRIBUTION TO AMENITY

Although there are a number of other trees within the Booth Field the Beech tree is the most prominent and its removal would be detrimental to the character of the local area. All the trees in this area are situated in a parkland setting and have been able to grow in their natural form. The Council's amenity evaluation assessment gives an amenity value rating (AVR) of 20, which is clearly above the benchmark of 17, but it is not considered an 'outstanding' or 'special' tree and, therefore, an article 5 certificate could not be issued.

ASSESSMENT OF CASE

The evidence provided by OCA indicates that the damage which 'Wayside' is experiencing is attributed to soil desiccation causing a downward rotational movement of the rear left hand side corner of the property.

In cases where it is suspected that trees may be the primary cause of the damage there are three pieces of evidence which are essential, these are:

1. Evidence of soil desiccation
2. Proof of seasonal movement
3. Live roots have been found underneath the foundations.

In this case all three pieces of evidence have been submitted to support the claim that the cause of the damage can be attributed to the tree root action.

The Beech tree is of significant amenity value and its removal would have a detrimental effect on the character and amenity of the surrounding area. It would normally, therefore, be preferable to retain the tree by using alternative engineering solutions such as root barriers. However, any such solutions would mean that the roots would have to be partially severed, therefore, making the tree unstable.

A second option would be to reduce the crown, therefore reducing the amount of water it extracts from the soil. However recent studies have shown that to have any impact on soil moisture, severe crown reduction of 70%-90% would have to be carried out. This would result in the Beech tree being severely disfigured and, furthermore, the removal of such a large amount of living tissue would quite probably result in the decline of the tree.

It should be noted though that if consent is granted for the Beech to be felled it may result in heave, which can cause damage to structures. It occurs when clay starts to absorb more water than it was able to beforehand and therefore it expands. This could, in theory, occur if this Beech is removed. However, it is important to note that the engineers acting for the applicant, OCA, have ruled out the possibility of this happening. However, it is recommended that it be drawn to PINS attention that consideration should be given to attaching an informative note to any consent to the effect that the appellant should satisfy himself that there is not a possibility of heave and, if there is, take necessary steps to minimise the potential impact, such as phasing the work.

In this case if the cause of the damage is not removed then an alternative solution would have to be sought, for example, if the Beech tree is not removed the foundations of 'Wayside' would have to be underpinned.

A breakdown of the cost of structural works has been submitted by the appellant showing the difference between the tree being retained or removed.

If the tree is retained then the cost for carrying out major works to the property has been estimated between £56k- £71k. This includes underpinning and superstructure repairs, together with costs arising from disruption to the policy holder. However, if the tree is removed, the works will be kept to a minimum of between £12k -£15k for tree removal, reinforcement repairs and redecoration.

Potential Costs

Appeal Costs

With regard to appeal costs, generally each party meets their own but an application can be made against another party for wasted expense caused by unreasonable actions. There is no appeal fee in this case and little work will be accrued prior to the stage when actions in the appeal timetable have to be carried out. If members decided they would have granted consent then the Council would offer no evidence and notice will be given to that effect so that any work by the appellant should stop. If there were an application it is difficult to see what would be said to be unreasonable in the Council's actions and any costs should be low in any event. If members decide they would have refused consent the appeal would be defended and sufficient evidence to support that decision will need to be in place in time for the appeal deadlines to minimise the prospect of a successful costs application.

Compensation

In the case of compensation the position is more complex but in this case the TPO does make provision for compensation for loss/damage caused or incurred as a consequence of the refusal of any consent. One issue that could arise is that loss or damage may not be incurred as a consequence of refusal if no consent were required at all as in the case of a statutory exemption for nuisance under 198 (6), as outlined above. In these circumstances the Beech tree could potentially be regarded as a nuisance but, if that were not the case, then any compensation liability would arise from the date of the deemed refusal. Only damage caused by the tree roots

after the date of deemed refusal would be relevant except in so far as it could be evidenced that the refusal had necessitated more costly works than would have been needed if consent were given. The liability for compensation would only accrue if the Inspector goes on to refuse the appeal. In any event actions now taken by the Council should not affect the timescale for the appeal.

CONCLUSION:

The Beech tree in question has an important amenity value and, therefore, the impact of the proposed work would have an effect on the amenity of the area. This work is, however, considered to be the only viable option in regard to the evidence put forward by the applicant in support of the application. Therefore, it is recommended that Members resolve that if the Applicant had not appealed on the grounds of non determination, the Council would have granted consent subject to conditions and informatives accordingly and should, therefore, not offer evidence to the appeal.

It should be noted that whilst there are conditions and informatives that would have been sought if permission had been granted, if Members choose not to defend the appeal they will be referred to in a letter to PINS but will not be actively dealt with at a hearing. The decision on the appeal and any conditions or informatives is now a matter for the Inspector.

RECOMMENDATION:

- (1) THAT IF THE APPLICANT HAD NOT APPEALED ON THE GROUNDS OF NON DETERMINATION, THE COUNCIL WOULD HAVE GRANTED CONSENT SUBJECT TO THE FOLLOWING CONDITIONS AND INFORMATIVES:**

Conditions

C195 Completion of Felling

The tree works in respect of this consent shall be carried out in a manner to ensure that all brushwood and arisings are disposed of to leave the site in a safe and tidy condition;

Reason: In the interests of amenity and good arboricultural/forestry practice.

C196 Standard of Works (Trees)

All works hereby permitted shall be carried out in accordance with the provisions of BS 3998 (1989) "Recommendations for Tree Work" by a competent person only;

Reason: In the interests of amenity and good arboricultural practice.

C200 Replacement Planting (Nursery Standard)

One replacement Beech tree (*Fagus sylvatica*) of not less than Nursery Standard size (8-10cm girth, 2.75-3m height), conforming to the specifications of BS 3936 Part I "Nursery Stock", shall be planted during the tree planting season (October to February) following substantial completion of the felling hereby permitted, and be maintained thereafter to the satisfaction of the local planning authority.

Reason: In the interests of amenity and good arboricultural practice

C203 Replacement Planting (Specified Location)

The replacement tree(s) as specified shall be planted at the location(s) described below;

In a prominent position in Booth Field subject to the agreement of the Booth and Baldwin Charity.

Reason: In the interests of amenity and good arboricultural practice

C206 Replacement Planting (Maintenance)

Any replacement tree which dies or becomes seriously damaged or diseased within five years of being planted must be replaced with another of similar size or species within the course of the next planting season, unless the local planning authority give written consent to any variation;

Reason: In the interests of amenity and good arboricultural practice

Informatives

- It is recommended that the applicant and the landowner should satisfy themselves that there is not a possibility of heave and, if there is, take necessary steps to minimise the potential impact, for example through phasing the work.
- Owner Consent

This decision does not override the need for the applicant to obtain the consent of the tree owner before commencing the work granted consent.

- Provision for birds and bats

In taking the action specified in this Notice, special care should be taken not to disturb wild animals that are protected by the Wildlife and Countryside Act 1981, the Countryside and Rights of Way Act 2000 and the Conservation Regulations 1994. This includes birds and bats that nest or roost in trees.

(2) THAT THE COUNCIL OFFERS NO EVIDENCE TO THE HEARING ON THE ABOVE BASIS.

Background documents:

TA/0195/09: Land adjacent Wayside, Ashford Road, Harrietsham

406/115/12: TPO No 2 of 1997, Trees on Booth Field, Church Road, Harrietsham

APPENDIX A

MAIDSTONE BOROUGH COUNCIL PLANNING COMMITTEE MINUTES OF THE MEETING HELD ON 18 MARCH 2010

Present: Councillor Lusty (Chairman) and
Councillors Ash, Bradshaw, Chittenden, English,
Greer, Harwood, Mrs Marshall, Moriarty,
Nelson-Gracie, Paine, Paterson and J.A. Wilson
Also Present: Councillors Marshall, Naghi and Sams

353. TA/0195/09 - APPLICATION TO FELL ONE BEECH TREE AND TREAT ONE STUMP SUBJECT TO TREE PRESERVATION ORDER NO. 2 OF 1997 - LAND ADJACENT WAYSIDE, ASHFORD ROAD, HARRIETSHAM

The Committee considered the report of the Assistant Director of Development and Community Strategy.

Councillor Morris of Harrietsham Parish Council (against) and Mr Nottage, the applicant, addressed the meeting.

RESOLVED:

1. That if the applicant had not appealed on the grounds of non-determination, the Council would have granted consent subject to the conditions and informatives set out in the report with the amendment of conditions C195 and C200 as follows:-

C195 (amended)

A proportion of the cordwood above 20cm in diameter shall be retained and stacked safely for the colonisation of saproxylic fungi.

Reason: In the interests of nature conservation enhancement.

C200 (amended)

One replacement Beech tree (*Fagus sylvatica*), of not less than Nursery Heavy Standard size (12-14cm girth, 3.6-4.25m height), conforming to the specifications of BS 3936 Part I "Nursery Stock", shall be planted during the tree planting season (October to February) following substantial completion of the felling hereby permitted, and be maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: In the interests of amenity and good arboricultural practice.

2. That no evidence be offered to the hearing by the Council on the above basis.

Beech



182

Beech tree
viewed from
front of Wayside.

