

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 4 November 2010
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Lusty (Chairman), Ash, Barned,
Chittenden, English, Harwood, Hinder,
Nelson-Gracie, Paine, Paterson,
Mrs Robertson, J.A. Wilson 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 Items withdrawn from the Agenda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 - 11 November 2010

Continued Over/:

Issued on 27 October 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 14 October 2010 1 - 9
11. Presentation of Petitions (if any)
12. Report of the Head of Development Management - Deferred Items 10 - 11
13. MA/10/0645 - THE STATION HOUSE, STATION APPROACH, LENHAM, MAIDSTONE 12 - 20
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16. MA/10/0966 - LANGLEY PARK FARM, SUTTON ROAD, LANGLEY, MAIDSTONE 79 - 90
17. MA/10/1295 - 44 PARK WAY, MAIDSTONE 91 - 95
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20. Chairman's Announcements
21. 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.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 14 OCTOBER 2010

Present: Councillor Lusty (Chairman) and Councillors Barned, Butler, Chittenden, English, Harwood, Hinder, Nelson-Gracie, Paine, Paterson, Mrs Robertson, J.A. Wilson and Mrs Wilson

Also Present: Councillors Horne, D Mortimer and Sherreard

165. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Ash.

166. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Butler was substituting for Councillor Ash.

167. NOTIFICATION OF VISITING MEMBERS

Councillor Horne indicated his wish to speak on the report of the Head of Development Management relating to application MA/10/0943.

Councillor D Mortimer indicated his wish to speak on the report of the Head of Development Management relating to application MA/10/1322.

Councillor Sherreard indicated his wish to speak on the report of the Head of Development Management relating to application MA/10/0791.

168. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

169. URGENT ITEMS

Update Report

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

170. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Chittenden stated that whilst he had made his feelings known before about the overall noise situation at Pegasus Place, Lodge Road, Boxley, he had not pre-determined application MA/10/1192, and intended to participate when it was discussed.

Councillors Harwood and Hinder disclosed personal interests in the report of the Head of Development Management relating to application MA/10/1192. 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.

171. EXEMPT ITEMS

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

172. MINUTES

RESOLVED: That the Minutes of the meeting held on 23 September 2010 be approved as a correct record and signed.

173. MATTERS ARISING FROM THE MINUTES OF THE MEETING HELD ON 23 SEPTEMBER 2010

MINUTE 156 - AN APPLICATION FOR LISTED BUILDING CONSENT FOR THE INSTALLATION OF OAK PANEL DOORS - VOLUNTEERS PAVILION, MOTE PARK, MAIDSTONE

In response to a question, the Head of Development Management undertook to update Members on the outcome of the enquiries made at the Centre for Kentish Studies regarding the design of the original doors to the Pavilion.

174. PRESENTATION OF PETITIONS

It was noted that a petition would be referred to in relation to application MA/10/0943.

175. DEFERRED ITEMS

- (1) 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 Head of Development Management advised Members that he had nothing further to report in respect of this application at present.

- (2) MA/10/0649 – PLANNING APPLICATION FOR THE ERECTION OF 3-4 STOREY DEVELOPMENT TO INCLUDE 11 NO. DWELLINGS (3 STUDIO FLATS, 3 X 1-BED FLATS AND 5 X 3-BED TERRACED DWELLINGS)

AND ASSOCIATED WORKS INCLUDING ACCESS AND PARKING – THE ROSE, 1 FARLEIGH HILL, TOVIL, MAIDSTONE

See Minute 177 below

- (3) MA/10/0791 – AN APPLICATION FOR LISTED BUILDING CONSENT FOR ERECTION OF SINGLE STOREY REAR EXTENSION (RE-SUBMISSION OF MA/09/0726) – 3 RANDALLS ROW, HIGH BANKS, LOOSE, MAIDSTONE

See Minute 182 below

176. APPEAL DECISIONS

The Committee considered the report and the urgent update report of the Head of Development Management setting out details of appeal decisions received since the last meeting. The Head of Development Management advised the Committee that he was questioning the Inspector's decision to allow with conditions the appeal against refusal of application MA/09/2331 as he was concerned that revised plans may have caused some confusion.

RESOLVED: That the report be noted.

177. MA/10/0649 - PLANNING APPLICATION FOR ERECTION OF A 3-STOREY DEVELOPMENT TO PROVIDE 11 RESIDENTIAL UNITS COMPRISING 8 X 2-BEDROOM HOUSES AND 3 X 2-BEDROOM FLATS AND ASSOCIATED WORKS INCLUDING ACCESS AND PARKING - THE ROSE, 1 FARLEIGH HILL, TOVIL, MAIDSTONE

All Members except Councillors Butler and J A Wilson stated that they had been lobbied.

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

RESOLVED:

1. That subject to the prior completion of a legal agreement in such terms as the Head of Legal Services may advise to secure:-
 - Contributions for Kent County Council (Mouchel) as follows:-

£2,497 for library facilities and £1,980 for adult education facilities to be used towards additional provision and enhanced capacity at the new Maidstone Hub Library and Archive/History Centre; and
£2,789.06 for youth and community facilities to be used to provide a youth worker for the area.
 - Contributions of £7,920 for the West Kent Primary Care Trust towards improvements to the surgeries identified in the report.

- Contributions of £17,325 for Maidstone Borough Council Parks and Leisure towards the provision or improvement of open and green spaces within Tovil Parish/South Ward with priority given to Bridge Mill Way and Woodbridge Drive.

the Head of Development Management 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 informative set out in the urgent update report.

2. That Members' expressed preference for the contribution secured through the legal agreement for improvements to parks and open spaces to be allocated to either or shared between Woodbridge Drive and Bridge Mill Way and their stipulation that consideration be given to the provision of play equipment and trees must be taken into account when decisions are made regarding the use of the monies.

Voting: 13 – For 0 – Against 0 – Abstentions

178. MA/10/1192 - AN APPLICATION FOR VARIATION OF CONDITION 9 OF MA/09/1569 AS APPROVED UNDER MA/10/0285 TO FACILITATE THE REMOVAL OF THE APPROVED ROOF TO THE TRANSFORMER ENCLOSURE ADJACENT TO THE MAIN PLANT ROOM AND THE RAISING OF THE ACOUSTIC SCREEN FROM 6.1M TO 6.245M IN HEIGHT AND ITS CLADDING IN MATERIALS TO MATCH THE MAIN PLANT ROOM - PEGASUS PLACE, LODGE ROAD, BOXLEY, MAIDSTONE

All Members stated that they had been lobbied.

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

Mr Lowder, an objector, and Ms Jasper, for the applicant, addressed the meeting.

RESOLVED: That permission be granted subject to the conditions and informative set out in the report and the following additional informative:-

Additional testing should be undertaken by the applicant prior to the use of the building being fully commissioned in order to confirm that the transformers can meet the boundary noise condition (Condition 5 of MA/09/1569).

Voting: 7 – For 4 – Against 2 – Abstentions

179. MA/10/0960 - APPLICATION FOR CHANGE OF USE FROM A1 (HAIR AND BEAUTY SALON) TO D1 (DAY NURSERY) - WEALDEN SADDLERY, HIGH STREET, STAPLEHURST, TONBRIDGE

The Chairman and Councillors Chittenden, English, Harwood, Paterson, Mrs Robertson and Mrs Wilson stated that they had been lobbied.

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

Mr Sturdy, an objector, Councillor Fairfax of Staplehurst Parish Council (against) and Ms Gedge, for the applicant, addressed the meeting.

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

Voting: 8 – For 4 – Against 1 – Abstention

180. MA/10/0747 - AMENDMENTS TO LISTED BUILDING CONSENT MA/06/0081 (AN APPLICATION FOR LISTED BUILDING CONSENT FOR THE CONVERSION OF MOTE HOUSE TO AN ASSISTED LIVING CARE HOME (CLASS C2) WITH ASSOCIATED ACCOMMODATION (15 NO. UNITS) AND FACILITIES. CONVERSION OF EXISTING STABLES, LAUNDRY/BREWHOUSE AND KITCHENS TO FORM 14 NO. RESIDENTIAL UNITS; CONVERSION OF EXISTING POTTING SHEDS TO 1 NO. NEW DWELLING; DEMOLITION OF MODERN ANNEXE AND OTHER MODERN BUILDINGS AND ASSOCIATED WORKS) BEING PHASE THREE CLASS C2 ANCILLARY ACCOMMODATION VARIATIONS INCLUDING THE CONVERSION AND EXTENSION OF EXISTING STABLES, LAUNDRY/BREWHOUSE, DAIRY AND OLD KITCHENS TO FORM 15 NO. ACCOMMODATION UNITS. DEMOLITION OF EXISTING SHED AND ANCILLARY BUILDINGS AND REPLACEMENT OF NEW BUILDINGS TO PROVIDE 21 NO. ACCOMMODATION UNITS. CONSTRUCTION OF 14 NEW ACCOMMODATION UNITS ALONG THE EASTERN BOUNDARY OF SITE AND REBUILDING OF CARPENTERS' SHED TO FORM 1 NO. ACCOMMODATION UNIT. CONSTRUCTION OF 1 NO. NEW DETACHED ACCOMMODATION UNIT ADJACENT TO THE CARPENTERS' SHED. THIS REPRESENTING AN ADDITIONAL 14 UNITS OVER AND ABOVE THE EXISTING SCHEME – MAIDSTONE CARE AT HOME SERVICE, MOTE HOUSE, MOTE PARK, MAIDSTONE

All Members stated that they had been lobbied.

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

Mr Krauze, for the applicant, addressed the meeting on this application and application MA/10/0748.

RESOLVED: That listed building consent be granted subject to the conditions set out in the report.

Voting: 13 – For 0 – Against 0 – Abstentions

181. MA/10/0748 - AMENDMENTS TO PLANNING PERMISSION MA/06/0082 (CONVERSION OF MOTE HOUSE TO AN ASSISTED LIVING CARE HOME (CLASS C2) WITH ASSOCIATED ACCOMMODATION (15 NO. UNITS) AND FACILITIES; CONVERSION OF EXISTING STABLES,

LAUNDRY/BREWHOUSE AND KITCHENS TO FORM 14 NO. RESIDENTIAL UNITS. DEMOLITION OF MODERN ANNEXE AND OTHER MODERN BUILDINGS AND REPLACEMENT WITH NEW BUILDINGS TO PROVIDE 24 NO. RESIDENTIAL UNITS; CONVERSION OF EXISTING POTTING SHEDS TO 1 NO. RESIDENTIAL UNIT. CONSTRUCTION OF A NEW GATEHOUSE BUILDING TO PROVIDE 10 NO. RESIDENTIAL UNITS; CONSTRUCTION OF 23 NO. NEW RESIDENTIAL UNITS WITHIN THE WALLED GARDEN; ASSOCIATED LANDSCAPING WORKS TO ALL OF THESE AND FORMATION OF A NEW KITCHEN GARDEN WITHIN THE WALLED GARDEN) BEING PHASE THREE CLASS C2 ANCILLARY ACCOMMODATION VARIATIONS INCLUDING THE CONVERSION AND EXTENSION OF EXISTING STABLES, LAUNDRY/BREWHOUSE, DAIRY AND OLD KITCHENS TO FORM 15 NO. ACCOMMODATION UNITS. DEMOLITION OF EXISTING SHED AND ANCILLARY BUILDINGS AND REPLACEMENT OF NEW BUILDINGS TO PROVIDE 21 NO. ACCOMMODATION UNITS. CONSTRUCTION OF 14 NEW ACCOMMODATION UNITS ALONG THE EASTERN BOUNDARY OF SITE AND REBUILDING OF CARPENTERS' SHED TO FORM 1 NO. ACCOMMODATION UNIT. CONSTRUCTION OF 1 NO. NEW DETACHED ACCOMMODATION UNIT ADJACENT TO THE CARPENTERS' SHED. THIS REPRESENTING AN ADDITIONAL 14 UNITS OVER AND ABOVE THE EXISTING SCHEME - MAIDSTONE CARE AT HOME SERVICE, MOTE HOUSE, MOTE PARK, MAIDSTONE

All Members stated that they had been lobbied.

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

Mr Krauze, for the applicant, had already addressed the meeting.

RESOLVED: That subject to the prior completion of a legal agreement in such terms as the Head of Legal Services may advise to secure a contribution of £7,056 for the West Kent Primary Care Trust to be used for a premises upgrade/development to support the Shepway Practice at Northumberland Road, the Head of Development Management be given delegated powers to grant permission subject to the conditions set out in the report and the following additional condition and informative:-

Additional Condition

The new-build dwelling units hereby permitted shall achieve a BREEAM Multi-residential standard of at least GOOD. No new-build dwelling unit shall be occupied until a final Code Certificate has been issued for it certifying that a standard of GOOD has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with Kent Design and PPS1.

Additional Informative

Provision should be made for the inclusion of bat boxes and swift bricks in the details submitted pursuant to the conditions set out above.

Voting: 13 – For 0 – Against 0 – Abstentions

182. MA/10/0791 - AN APPLICATION FOR LISTED BUILDING CONSENT FOR ERECTION OF SINGLE STOREY REAR EXTENSION (RE-SUBMISSION OF MA/09/0726) - 3 RANDALLS ROW, HIGH BANKS, LOOSE, MAIDSTONE

All Members except Councillor Butler stated that they had been lobbied.

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

Ms George, an objector, Councillor Andrew of Loose Parish Council (against), Mrs Bradley, the applicant, and Councillor Sherreard addressed the meeting.

Contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse permission notwithstanding the advice of the Head of Development Management that he believed the reason to justify refusal would not be sustainable at appeal and that there was a significant risk of costs being awarded against the Council.

RESOLVED: That permission be refused for the following reason:-

The proposed extension by its nature fails to maintain or enhance the listed building and the neighbouring listed buildings, which together constitute a significant grouping within the conservation area. In particular the flat roofline, imposed by the nature of its relationship with the existing extension creates an incongruous visual effect which undermines the quality of the listed buildings and their setting, contrary to the provisions of PPS5.

Voting: 5 – For 3 – Against 5 – Abstentions

DECISION DEFERRED UNTIL THE NEXT MEETING pursuant to paragraph 17 (a) of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters.

183. MA/10/1322 - SINGLE STOREY SIDE INFILL EXTENSION WITH BAY WINDOW TO REPLACE CAR PORT, SINGLE STOREY REAR EXTENSION, TWO STOREY REAR EXTENSION WITH ACCOMMODATION IN ROOF, ADDITION OF TWO NO. DORMERS AND RAISING OF MAIN RIDGE HEIGHT - 110 LOOSE ROAD, MAIDSTONE

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

Mr Clift, an objector, and Councillor D Mortimer addressed the meeting.

RESOLVED: That consideration of this application be deferred to enable the Officers to:-

- Seek to negotiate an outcome that would overcome the neighbouring resident's concerns with regard to the form of fenestration.
- Explore whether a landscape condition or Tree Preservation Order is the best way to protect the planting on the site boundaries.
- Investigate ecological mitigation through bat boxes and swift bricks.

Voting: 13 – For 0 – Against 0 – Abstentions

184. MA/10/0943 - DEMOLITION OF PRE-FABRICATED GARAGES AND ERECTION OF THREE DWELLINGS (ONE SEMI-DETACHED PAIR AND ONE DETACHED) WITH ASSOCIATED GARAGES, PARKING, LANDSCAPING, NEW ENTRANCE AND ACCESS - EAST COURT, THE STREET, DETLING, MAIDSTONE

All Members except Councillor Butler stated that they had been lobbied.

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

Mr Maclaren, an objector, Mr Cooper, for the applicant, and Councillor Horne addressed the meeting.

Contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse permission.

RESOLVED:

1. That permission be refused for the following reason:-

The proposal would result in harm to the character and appearance of the Kent Downs AONB by reason of the inappropriate design, in particular the layout and scale, contrary to the provisions of policy ENV33 of the Maidstone Borough-Wide Local Plan 2000 and central government planning policy and guidance in PPS1 Delivering Sustainable Development and PPS7 Sustainable Development in Rural Areas.

2. That consideration should be given to whether another reason for refusal on the grounds of air quality can be added to the decision.

Voting: 13 – For 0 – Against 0 – Abstentions

185. MA/10/1472 - ERECTION OF A FIRST FLOOR SIDE EXTENSION - 4 YARROW COURT, MAIDSTONE

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

Councillor Waite of Thurnham Parish Council (against) addressed the meeting.

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

Voting: 12 – For 0 – Against 1 – Abstention

186. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that:-

- A Members' training session on residential extensions would be held at 6.30 p.m. on Monday 18 October 2010.
- A Local Development Document Advisory Group Workshop would be held at 6.30 p.m. on Monday 25 October 2010.

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

It was noted that there was nothing to report at present other than that the Cabinet Member for Regeneration had written to the Secretary of State for Communities and Local Government calling upon the Government to reconsider the facility for retrospective planning applications. The Cabinet Member had sought the support of the local Members of Parliament and the LGA in his representations.

Arising from its consideration of application MA/10/0960, the Committee:-

RESOLVED: That the Cabinet Member for Environment be requested to monitor the parking situation in the High Street, Staplehurst following implementation of application MA/10/0960.

188. DURATION OF MEETING

6.00 p.m. to 10.10 p.m.

Minutes**Address and Description:****MA/10/0943****East Court, The Street, Detling
Demolition of pre-fabricated garages and erection
of three dwellings (one semi-detached pair and
one detached) with associated garages, parking,
landscaping, new entrance and access****Background**

This application was reported to the last Planning Committee (14 October 2010) where Members resolved to refuse the application on the following ground:-

"The proposal would result in harm to the character and appearance of the Kent Downs AONB by reason of the inappropriate design, in particular the layout and scale, contrary to the provisions of policy ENV33 of the Maidstone Borough-Wide Local Plan 2000 and central government planning policy and guidance in PPS1 Delivering Sustainable Development and PPS7 Sustainable Development in Rural Areas."

In addition, Members asked for consideration to be given to whether an additional reason for refusal on the grounds of air quality can be added to the decision because of the site's close proximity to the A249.

Officer Comment

The Planning Officer has undertaken further consultation with the Environmental Health Manager on this particular matter and the following further comments have been received:-

"This application was presented to Planning Committee on 14th October 2010 and permission was refused. However members asked whether a further ground for refusal could be included concerning air quality. This was not considered in previous applications, as there was no evidence at that time to warrant air quality as an issue at this locality. However, as part of the Council's Local Air Quality Management some monitoring has taken place since 2009 at a locality on the other side of the A249 on the corner of Pilgrims Way and Detling Hill. Initial results have shown no exceedence of the Governments Air Quality Strategy guidelines for Nitrogen Dioxide at this locality. Extrapolating these results to this application site would indicate that at a position some 30 metres away from the carriageway, nitrogen dioxide levels would be significantly lower than that found so far at Pilgrims Way. There is also shielding afforded by trees, which should also have a beneficial effect in lowering air pollution levels. Consequently air quality is less of a concern compared to noise at this locality."

Recommendation

On this basis there is no evidence to show that air pollution levels from traffic on the nearby A249 are adversely affecting this site, secondly, I would remind Members that air pollution was not an issue at the recent appeal. Therefore I would recommend that this is not used as an additional reason for refusal.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

4 NOVEMBER 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. <u>Description of Application</u>	<u>Date Deferred</u>
(1) <u>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</u>	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.

Deferred again for the submission of much improved and more detailed ecological mitigation measures and enhancements, including additional landscaping, taking into account the biodiversity importance that has been identified at the site. 12 August 2010

(2) <u>MA/10/1322 - SINGLE STOREY SIDE INFILL EXTENSION WITH BAY WINDOW TO REPLACE CAR PORT, SINGLE STOREY REAR EXTENSION, TWO STOREY REAR EXTENSION WITH ACCOMMODATION IN ROOF, ADDITION OF TWO NO. DORMERS AND RAISING OF MAIN RIDGE HEIGHT – 110 LOOSE ROAD, MAIDSTONE</u>	14 October 2010
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Deferred to enable the Officers to:-

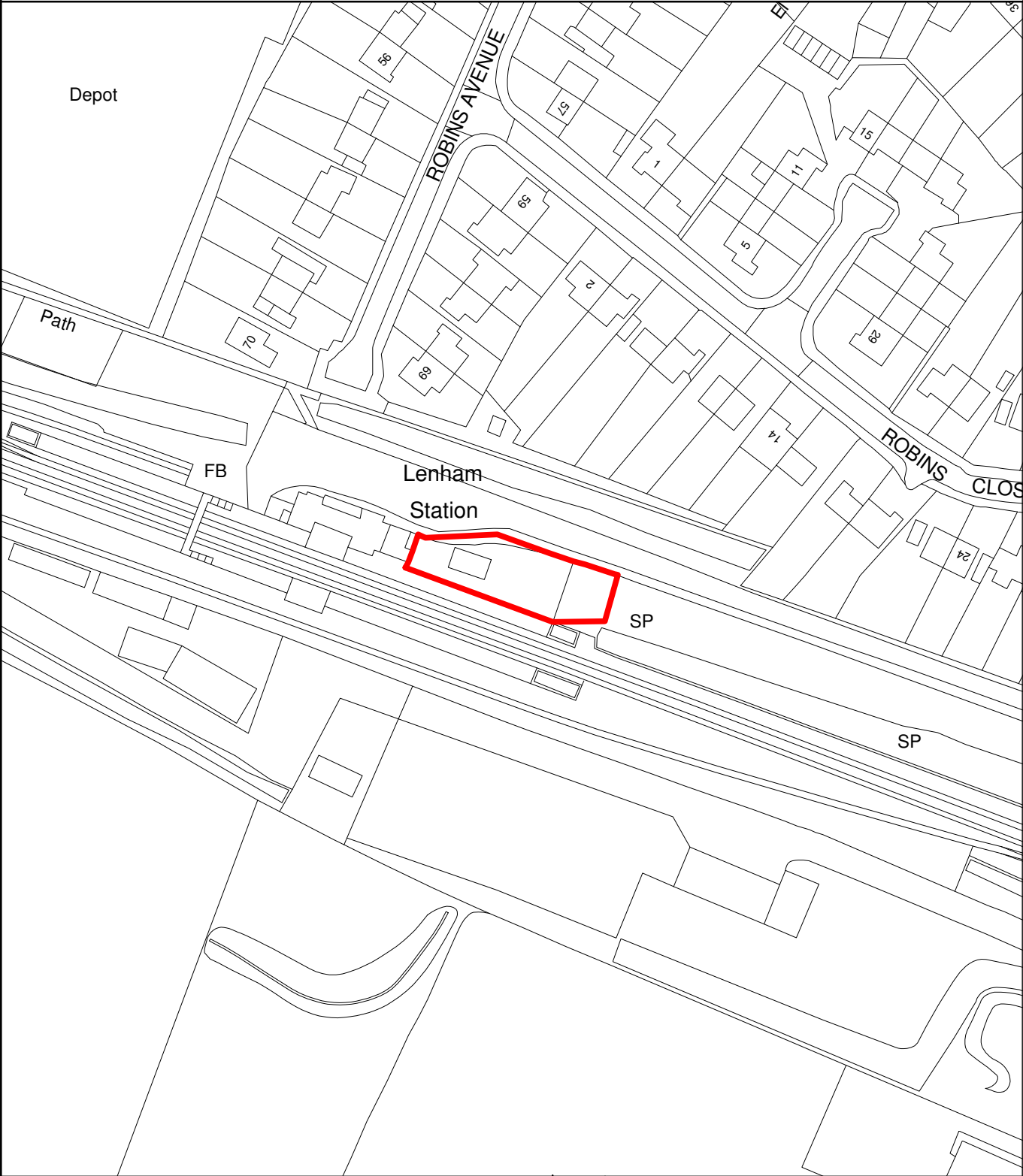
- Seek to negotiate an outcome that would overcome the neighbouring resident's concerns with regard to the form of fenestration.
- Explore whether a landscape condition or Tree Preservation Order is the best way to protect the planting on the site boundaries.
- Investigate ecological mitigation through bat boxes and swift bricks.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0645

GRID REF: TQ8951

**THE STATION HOUSE,
STATION APPROACH, LENHAM.**



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/0645 Date: 15 April 2010 Received: 17 September 2010

APPLICANT: Mr D Tierman, Infrastructure training Services Ltd

LOCATION: THE STATION HOUSE, STATION APPROACH, LENHAM, MAIDSTONE, KENT, ME17 2HR

PARISH: Lenham

PROPOSAL: Change of use of part of Training Centre for use as track training area and minor alterations to site layout

AGENDA DATE: 4th November 2010

CASE OFFICER: Richard Timms

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

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

1 POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, T13
Government Policy: PPS1, PPS4, PPS7, PPG24

2 HISTORY

- MA/09/0608 Change of use of land to erect three portacabins for use as a training centre together with hard and soft landscaping – TEMPORARY 3 YEAR PERMISSION GRANTED WITH CONDITIONS
- MA/05/1640 Change of use of existing buildings and land to a mixed use as an office and administrative centre and for non-residential training together with the provision of modular buildings, external training area, storage area and car parking – WITHDRAWN
- MA/95/0949 Continued use of land for the stationing of wooden garage for storage purposes – APPROVED WITH CONDITIONS
- MA/89/1986 Wood garage - storage of machines – APPROVED WITH CONDITIONS

3 CONSULTATIONS

3.1 **Lenham Parish Council:** Do not wish to comment.

3.2 **Councillor Tom Sams:**

"The application has been controversial locally. I know it has been subject to concerns from local residents. I would appreciate the planning committee giving it their due consideration."

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

"I am satisfied that the controls placed on potentially noisy activities are sufficient and also that these activities do not amount to anything excessive and hence I am in agreement with the Planning Officer's suggestions for this application."

3.4 **Network Rail:** No objection - support application.

4 REPRESENTATIONS

Six neighbour representations received raising the following points:

- There is noise pollution and disturbance from new uses.
- Training lasts longer than two hours, usually intermittent throughout the day.
- Inappropriate location.
- Loss of trees which provide sound and view protecting barrier.
- Changes after planning permission approved.
- Not in accordance with original planning permission.
- Lack of parking and increased traffic and thus noise.
- If approved, may lead to pressure for further development on land the other side of the railway line.
- Pleased to see environmental commitment following occupation of the site.

5 CONSIDERATIONS

5.1 Site & Setting

5.1.1 This is a retrospective application for changes to the layout of an approved rail training centre and the provision of mock rail tracks for open air track training at land east of Lenham railway station, Station Approach, Lenham. The site is located immediately south of the defined village envelope of Lenham and not within any specially designated areas.

5.1.2 The application relates to an existing training facility approved under temporary permission MA/09/0608 until June 2012. The facility provides training for

Infrastructure Services Limited (ITS) for train operatives to work on all Network Rail and London Underground track and trackside facilities. Safety and skills training is provided as well as preparatory and renewals courses. Pupils are taught within portacabins and some practical training is carried out on the mock tracks.

- 5.1.3 It is immediately east of Lenham Station on the north side of the railway line. It is approximately 43m in length and varies in width from 7.5m at the west end and 14m at the east. Lenham High Street is approximately 200m east of the application site off the Station Approach road. On site are the 3 approved portacabins, hard surfacing, refuse store and parking areas. The site is surrounded by 2m grey palisade fencing. The training tracks for which permission is sought are on the east side of the site.
- 5.1.4 Further north are dwellings on Robins Avenue, the closest being no. 69 which is some 30m from the site. Immediately to the east is an area of land between the railway line and the approach road occupied by trees, which stretches east for some 220m to the access to the station. To the west is the Victorian station building. On the south side of the railway line is a goods yard with various materials stored outside and single storey buildings.
- 5.1.5 The site is located outside the village envelope of Lenham and therefore within countryside for Development Plan purposes, however it is clearly not open countryside with built development to the north and south and the adjoining railway line.

5.2 Proposed Development & Planning History

- 5.2.1 This application seeks retrospective amendments to the previously approved permission (MA/09/0608) being changes to the layout and the provision of 3 new open air training tracks on a former parking area. The application originally proposed extending the site further east, however it has been amended and permission is sought only for what is at the site.
- 5.2.2 The changes to the previously approved layout involve the site extending slightly further north towards the pavement at the west end. This can be seen on the proposed layout plan, which shows the previous outline of the site in red. As a result the landscaped area alongside the pavement has altered in shape with an increase in space for planting at the west end but narrower strips either side of the access. Currently these areas are covered with stones but it is intended to replace these areas with landscaping as per the proposed plan. Planting would be snowberry, cotoneaster and common sage, which was approved under the previous scheme.

- 5.2.3 A larger portable steel refuse store (goosewing grey colour) replaces the previously approved timber enclosure west of the access. The 3 portacabins (grey colour) remain in their approved positions at the west end of the site. The palisade fencing extends further west of the site than is necessary and this would be removed with the chainlink fence reinstated.
- 5.2.4 The track training area results in the loss of two parking spaces and motor cycle parking with 2 car spaces and 8 cycle spaces left over. The training tracks are fixed to sleepers and surrounded by gravel chippings to simulate a real track situation.
- 5.2.5 Open air training on the tracks is carried out between 9am and 3pm on weekdays, which is mainly visual work with the use of manual held tools such as jacks, clamps and shovels. One day a month for a maximum of 2 hours there is training in the use of a disc cutter and this takes place in a separate temporary acoustic enclosure. This is for 2 hours only, normally between 10am and 12pm and used intermittently. Otherwise the hours of use for the site are 8am to 6pm on weekdays only.
- 5.2.6 The proposals would be for a limited period until 2012 as 'ITS' intends to acquire another site and construct a permanent purpose built training facility in this area of Kent. At this point the development would be removed.
- 5.2.7 There are currently 4 training staff and 2 administrative staff working on the site. Training groups vary in size but would be a maximum of 12 trainees at any one time. Training courses vary in length from 1 day to 10 days in duration.

5.3 Assessment

- 5.3.1 A temporary permission has already been granted for the use of the site. The assessment for this application therefore relates only to the minor retrospective changes to the existing site and the provision of open air tracks (which involve a loss of parking).

5.4 Visual Impact

- 5.4.1 In my view the changes to the site layout and the slightly larger portable steel refuse store do not have any significant implications above the previous permission. However, as considered before, portacabins and such temporary buildings are not desirable or of good design quality. Permission was therefore allowed on the basis that it was for a temporary period and I consider this still to be the case. I consider the visual impact of the development can be accepted for the temporary period which would now be just over 19 months.

- 5.4.2 With regard to the open air tracks, visually these have a limited impact due to the tracks being at ground level. There are no medium or long range views of the site, so I consider the impact upon the wider area is minimal and acceptable.
- 5.4.3 The landscaped areas, although of an ornamental character, were approved previously under the last permission. The site is not located in a rural setting and there are domestic rear gardens to the north. For this reason, I consider these species are acceptable and can be secured by condition to be planted this season (October 2010 – March 2011).
- 5.4.4 I have also negotiated a scheme of land restoration which includes tree planting and grass seeding which can be ensured by condition.

5.5 Residential Amenity

- 5.5.1 Under the last application it was considered that there would be no significant privacy or noise issues arising from the use of the site (without the open air track training) due to the distance from dwellings (over 30m). This was a view also supported by the Environmental Health Manager. The minor changes to layout do not result in any material difference in this respect.
- 5.5.2 In terms of the track training, Councillor Sams and some local residents have raised objections with regard to noise disturbance. However, I have checked with the Environmental Health manager and note there have been no formal complaints made in respect of noise from the training facility to date. Nonetheless, I acknowledge that the open air track training does have the potential for minimal noise disturbance to these properties.
- 5.5.3 Firstly, the use of manual tools (which would be for the vast majority of the time), in my view would not give rise to unacceptable noise from the site. The use of the disc cutter would result in some noise from the site, however with this being intermittently for two hours, one day a month, I do not consider this would result in any significant harm to living conditions. This frequency and duration of use can be a condition of the permission to protect residential amenity. I also note the Environmental Health Manager is satisfied that the conditions placed on potentially noisy activities are sufficient and also that these activities do not amount to anything excessive.
- 5.5.4 Overall, I do not consider there would be any significant harmful impacts upon neighbouring residential amenity to warrant refusal of the application.

5.6 Highway Safety & Parking

- 5.6.1 The site would be left with 2 car parking spaces and bike stands for 8 bikes. The site is at a relatively sustainable location served by public transport (trains) and

within walking distance of the south of the village. It is submitted that most trainees travel to the site by train which is not unreasonable and the logical way of reaching the site. For this reason I consider two parking spaces to be acceptable. If parking did overspill onto the Station Approach road, there are parking spaces available here and this would not lead to any significant highway safety matters on Lenham High Street over 200m away.

5.7 Other Matters

5.7.1 Other matters raised by some local residents and not addressed above include the loss of trees and that permission may lead to pressure for further development of land on the other side of the railway line. The original proposal to extend the site would have resulted in the loss of a small number of trees, however this is no longer proposed. I do not consider a grant of permission would lead to pressure for further development and in any case each application must be judged on its own merits.

5.8 Conclusion

5.8.1 Visually, the amendments to the previously approved scheme do not have significantly different impacts and the permission would be for a temporary period. The track training facility does have the potential for noise, however the use of manual tools would not create any significant disturbance and the disc cutter would be limited to two hours a month, which I consider to be acceptable. For these reasons I recommend a temporary permission is granted subject to the following conditions.

6 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use, buildings and associated development hereby permitted shall be discontinued with the development removed on or before 30th June 2012;

Reason: The buildings by virtue of their design are not considered appropriate for permanent retention and in the interests of visual amenity in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, PPS1 and PPS4.

2. Within 2 months of the date of this permission, specific details of the land restoration scheme as shown on drawing no. 09A9/PL/103 to include landscaping, using indigenous species, together with measures for its protection and a programme for the approved scheme's implementation and management shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted

Landscape Character Assessment and Landscape Guidelines;

Reason: To appropriately restore the site in the interests of visual amenity in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and PPS1.

3. All planting, seeding or turfing comprised in the approved details of the restoration landscaping shall be carried out in the first planting and seeding seasons following the expiry of the planning permission. Any trees or plants which within a period of two years from the restoration of the site 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 appropriately restore the site in the interests of visual amenity in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

4. All planting, seeding or turfing comprised in the approved details of the landscaping scheme for the development as shown on drawing no. 09A9/PL/101 RevA shall be carried out in the current planting and seeding season (October 2010 – March 2011)

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

5. The use of a disc cutter or any other powered tools in connection with the track training facility shall be limited to a maximum of two hours between the hours of 10am to 12pm. Any use shall be limited to one occasion each calendar month and limited to weekdays only (Monday to Friday);

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

6. No activity in connection with the use hereby permitted shall be carried out outside the hours of 8am to 6pm from Mondays to Fridays and not at any time on Saturdays, Sundays, Bank or Public Holidays;

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

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

09A9/PL/101 Rev A and 09A9/PL/102 RevA received on 15th September 2010

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and PPS1.

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 there are no overriding material considerations to indicate a refusal of planning consent.

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19.08.2010

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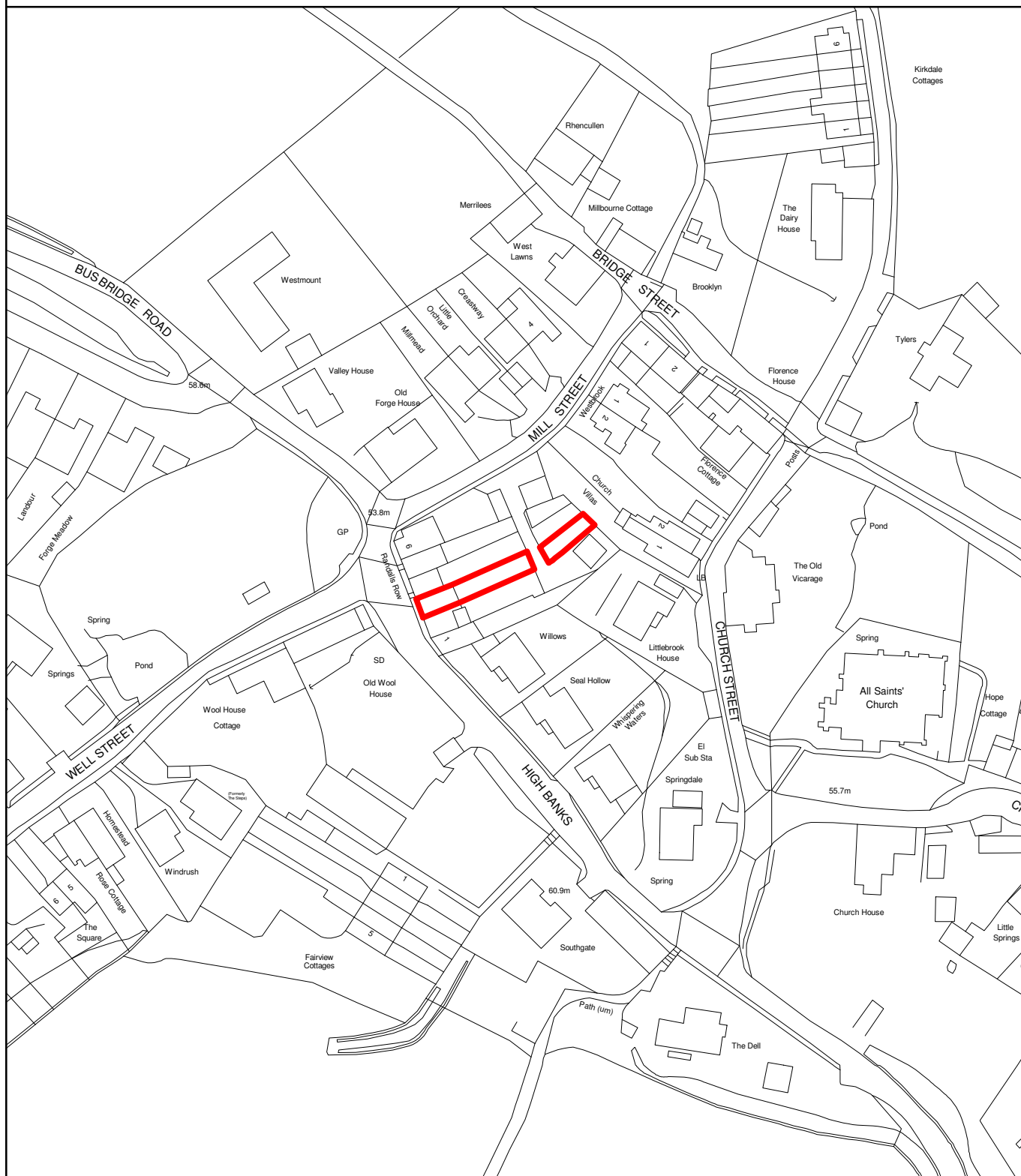
Agenda Item 14

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0791

GRID REF: TQ7552

3 RANDALLS ROW,
HIGH BANKS, LOOSE.



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/0791 Date: 6 May 2010 Received: 16 August 2010

APPLICANT: Mr P Bradley

LOCATION: 3, RANDALLS ROW, HIGH BANKS, LOOSE, MAIDSTONE, KENT,
ME15 0EG

PARISH: Loose

PROPOSAL: An application for listed building consent for erection of single storey rear extension (re-submission of MA/09/0726) as shown on drawing number(s) 05 rev A, 07 Rev A, 10 and 08 Rev A and a site location plan upon drawing no. 01 Rev A received on 10/05/10, drawing no. 09 Rev B received on 16/08/10, drawing no. 01 Rev B received on 23/07/10 and a Heritage Statement received on 21/07/10.

AGENDA DATE: 4th November 2010

CASE OFFICER: Louise Welsford

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

- it is contrary to views expressed by the Parish Council
- Councillor Sherreard has requested it be reported for the reason set out in a previous Committee report

POLICIES

Government Policy: PPS5.

1 HISTORY

- 1.1 See previous Committee report. Planning application MA/10/0790 for the proposed single storey rear extension was approved by Members at Planning Committee on 23rd September 2010.

2 CONSULTATIONS

- 2.1 Please see the previous Committee reports and Urgent Update (see Appendices) for details of the original comments received. The following comments have been received since the previous Committee meeting:

2.2 Maidstone Borough Council Conservation Officer:

"... As the Historic Environment Planning Practice Guide accompanying PPS5 makes clear (para 111), the duty to consider the desirability of preserving a listed building or its setting is equally applicable to both applications for planning permission and listed building consent. Therefore, if Members considered that the external appearance was acceptable under the planning application, in coming to that decision they should have had regard to the appropriateness of the design to the listed building. Listed Building Consent is required for a wider range of works than planning permission (smaller extensions or internal alterations, for example) but where there is an overlap where works require both permission and consent, both applications should be considered in the same way as regards the impact on the building.

Impact on the character of the Conservation Area also falls to be dealt with under the planning application, not the listed building consent. In granting the planning permission, Members have accepted that the proposal fulfils the requirement to preserve or enhance the Conservation Area.

I have just a few specific points to make in response to some of the objections.

I do not think it is reasonable to suggest that this modest extension will dominate the original asset or its setting in scale, material or siting.

I do not consider that the cumulative impact of this small extension (added to previous additions) will have any appreciable impact on the significance of the row of listed buildings.

The previous refusal related to a proposal of radically different design. Whilst double-glazing is still generally resisted on listed buildings, there are numerous examples where it has been allowed to be used in conjunction with large panes of glass on features such as French windows, etc.

The flat roof in itself does not make the extension unacceptable, particularly given its small scale and the use of a traditional material (lead) for its covering – extensions of this nature have been added to older buildings since the 19th Century. PPS5 nowhere seeks to impose strict historicism in the matter of style.

The use of render is not inappropriate in the context – many buildings in Loose are of white-painted render, including parts of Randall's Row. The roof is to be of lead.

Of course it is true that the listing protection extends to the whole building, including later extensions, but this does not mean that all such extensions have any special interest, merely that the legal requirement for listed building consent applies to them. Each application needs to be assessed on the basis of its impact

on the significance of the building – that significance may be greater in some parts of the building than others. In this case, no harm is done to any historic fabric, and the scale, design, bulk and materials of the extension have been considered to be appropriate within their context. The impact of the proposal on the significance of Randall’s Row might be described as neutral”.

3 REPRESENTATIONS

3.1 See previous Committee reports and Urgent Update (see Appendices) for representations previously received. The following comments have been received since the previous Committee meeting:

Further objections from four neighbouring properties. These raise a number of issues relating to listed buildings and conservation areas, including the following main issues:

- Proposal does not enhance the Listed Building.
- Design is inappropriate.
- The extension would dominate the neighbouring Heritage Assets.
- Visual appearance, (including materials and double glazing) is unacceptable.
- Importance of preservation, protection or enhancements of rear elevations to the terrace.
- Cumulative impact of extensions.
- The proposed development neither preserves nor enhances the special character of the area.
- Impact upon the terrace as a whole.
- Contrary to PPS5.

Other issues relating to residential amenity are raised, but these are not listed building consent issues.

4 BACKGROUND

4.1 This application follows the refusal of application MA/09/0726, which was refused on the following grounds:

“The proposed conservatory by virtue of its design, in particular, the pitched roof and double glazing would cause significant harm to the character, appearance and form of the listed building and would detract from the traditional and historic

appearance of a terrace of listed buildings, contrary to policy BE6 of the South East Plan 2009 and advice contained within PPG15: Planning and the Historic Environment”.

- 4.2 Subsequent to the previous refusal, the applicant sought pre-application advice upon the acceptability of a revised scheme. An informal meeting was held on site on 7th December 2009, with a Planning Officer and a Conservation Officer and a detailed letter providing informal advice was written to the applicant upon 9th December 2009. This proposal is in line with the Listed Building advice contained within the said letter. A copy of the pre-application advice was attached as an Appendix to the previous Committee report.
- 4.3 This application was originally considered by Members at the Planning Committee on 23rd September 2010. Members resolved to defer the application and sought detailed comments from the Conservation Officer and the Conservation Officer’s attendance at the Planning Committee meeting. However, planning permission was granted for the same scheme on 23rd September 2010.
- 4.4 This application was then reported back to Planning Committee on 14th October 2010. Detailed comments from the Conservation Officer were included within the Committee Report. The Conservation Officer was unable to attend the meeting.
- 4.5 Members resolved to refuse the application and the following reason for refusal was drafted:

“The proposed extension by its nature fails to maintain or enhance the listed building and the neighbouring listed buildings, which together constitute a significant grouping within the conservation area. In particular the flat roofline, imposed by the nature of its relationship with the existing extension creates an incongruous visual effect which undermines the quality of the listed buildings and their setting, contrary to the provisions of PPS5.”
- 4.6 Although a resolution to refuse was taken, the actual decision was deferred to allow a cooling off period, during which to assess the implications of the resolution and the wording of the reason for refusal.

PLANNING CONSIDERATIONS

5 SITE AND SITUATION

- 5.1 The application site contains an eighteenth century, Grade II Listed, mid-terraced cottage. The front elevation is constructed of red brick in Flemish Bond to the ground floor and white weatherboarding to the first floor, under a plain tiled roof. A rendered rear extension was added prior to 1981, having

accommodation upon two floors. Nos. 1-5 within the row are all Grade II Listed, although the end cottage, to the north, known as Forge Cottage, is not listed. The site is located within Loose Conservation Area and the village envelope of Loose. It also falls within an Area of Local Landscape Importance.

6 PROPOSAL

- 6.1 Listed Building Consent is sought for the erection of a single storey rear extension. The extension would have a footprint of approximately 4m x 2.5m. Its walls would be rendered and it would have a flat roof with a raised rooflight.
- 6.2 This application follows the refusal of application MA/09/0726, which was refused upon the grounds of the impact upon the Listed Building and Listed terrace. The full reason for refusal is given above. The main differences between the previous scheme and this scheme are that the proposal has been reduced in scale, from a maximum height of approximately 3.5m to 3m and from a maximum depth of approximately 3.8m to 2.5m. Also, the pitched roof has been replaced by a flat roof.
- 6.3 This scheme is for the same development which was granted planning permission on 23rd September 2010.

7 HISTORICAL IMPACT

- 7.1 It is important to note that there is not a specific requirement to *enhance* listed buildings. It is not a requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Act requires that local planning authorities have special regard to the desirability of *preserving* a Listed Building or its setting or any features of special architectural or historic interest which it possesses.
- 7.2 A key theme of PPS5 is that of conserving heritage assets. In Annex 2 of PPS5, conservation is defined as:
"The process of maintaining and managing change to a heritage asset in a way that sustains and where appropriate enhances its significance."
- 7.3 To *preserve or enhance* is a mandatory consideration in Conservation Areas and this matter was considered in the determination of the planning application (MA/10/0790 approved on 23rd September).
- 7.4 Both the Act and PPS5 require due consideration to be given to the *preservation* of listed buildings and their settings (as opposed to enhancement). The desirability of preserving the listed buildings, their settings and features of special architectural and historic interest have been fully considered in both the planning and listed building consent applications.

- 7.5 As discussed in the previous Committee reports, the proposed extension would be of a small scale in terms of both its depth and height, would be located in a subordinate position to the main house (being to the rear) and would be attached to modern work, rather than the original historic structure.
- 7.6 For these reasons, it is considered that the proposed extension would not dominate the main house and due to these factors and its simple design, it is considered that the proposal would have a neutral impact upon the Listed building and its setting.
- 7.7 The fact that this building has already been extended has also been considered, but again, due to the small scale of this proposal, the cumulative impact is not considered to be so overwhelming upon the original building as to justify a refusal.
- 7.8 In terms of the listed terrace as a whole, I would like to add that whilst existing rear extensions may be of a similar depth, they are of differing designs. The existing rear elevation of the terrace as a whole is not homogenous and, therefore, the addition of this small extension, again being of differing design, would not be significantly out of character. Existing rear extensions to the terrace are not of fixed character.
- 7.9 The proposal would not result in the loss of any historic fabric or features of special interest, because it would be attached to a modern extension.
- 7.10 It is fully recognized that the whole building is listed, but the existing rear elevation contains nothing specific of significance to this building. The proposal is for an extension to a modern extension – it seeks to attach modern work to modern work, and would not have any direct intervention with the original historic structure.
- 7.11 The Conservation Officer is firmly of the view that no significant harm would be caused to either the neighbouring Listed Buildings or their settings by this proposal. I have considered all of the issues raised in representations, but remain also of the view that this proposal accords with PPS5 and would not cause such significant harm to the Listed Buildings or their settings as to justify a refusal.
- 7.12 I would also like to point out that whilst other properties were referred to in the Conservation Officer's previous comments, significant weight was not afforded to these in formulating my recommendation, because the case must be assessed upon its own merits, which is what has been done.

8 WHETHER THE DRAFTED REASON FOR REFUSAL CAN BE SUSTAINED

- 8.1 As stated, Planning Permission for the proposed extension was granted at Planning Committee on 23rd September 2010.
- 8.2 The stated reason for refusal for this listed building application relates to the design and visual appearance of the extension and its impact upon the listed buildings and their settings. These issues are also planning issues which were considered under the planning application and therefore deemed to be acceptable under that permission.
- 8.3 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that local planning authorities have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. This requirement applies equally to planning and Listed Building consent applications.
- 8.4 The relevant policies and guidance in relation to this listed building consent application are contained within PPS5. The approved planning application was also considered in relation to the policies and guidance within PPS5. Indeed, PPS5 advises that it:
"sets out the approach local planning authorities are to take when determining whether to grant planning permission or other consents ..." (such other consents would include listed building consent). The approach of PPS5 being that "Local Planning Authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal". This assessment has been undertaken through the planning process.
- 8.5 The fundamental difference between an application for planning permission and an application for Listed Building Consent is that an LBC application also considers the impact on the historic fabric of the protected building when planning permission is not needed, for example: demolition; removal/replacement of any part of the structure of the building and/or fenestration. LBC consent can also be required for works which constitute Permitted Development not requiring planning permission. Members have already therefore considered the impact of the proposed extension on the Listed Building and found this to be acceptable through the grant of planning permission. It is clear that the proposed extension would not cause harm to the fabric of the listed building as it does not involve the loss of any original features nor does it physically connect to the original building.
- 8.6 The stated reason for refusal does not refer to any internal loss of historic fabric. The reason for refusal relates to the considerations which have already been considered through the planning application.

8.7 Therefore, the issues to be considered in this particular application are essentially the same in that both applications should be considered with regards to Listed Building issues as indicated by the Act and PPS5. In consequence, the cited reason for refusal cannot be sustained, because the areas which are stated to be unacceptable have already been considered acceptable under the approved planning application.

9 CONCLUSION

9.1 Taking all of the above into account, and also the comments within the previous Committee reports and Urgent Update, it is concluded, on balance, that the previous reason for refusal has been addressed and that the proposal would not result in significant harm to the character, appearance or setting of the Grade II Listed Building or to the listed terrace.

9.2 The stated reason for refusal cannot be sustained. Approval is recommended.

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 full details of new external and internal joinery, in the form of large scale drawings, 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.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

3. The development shall not commence until full details of the render mix and colour of the finish of the extension 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.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

4. Notwithstanding the details submitted in section 14 of the application form received on 10th May 2010, the roof of the extension hereby permitted shall be constructed of lead and shall be maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

Informatives set out below

Joinery details should show flush casements, with no more than 6mm double glazing.

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 there are no overriding material considerations to indicate a refusal of planning consent.

MA / 10 / 0791

Appendix 1



Mr & Mrs P Bradley
3 Randall Row
Loose
Maidstone
Kent ME15 0EG

David Petford
Chief Executive
David Edwards
Director of Change &
Environmental Services
Alison Broom
Director of Prosperity
& Regeneration
Zena Cooke
Director of Resources
& Partnerships

Date: 09 December 2009
My ref 420/124 (Randalls Row)
Your ref: N/A

Maidstone House
King Street
Maidstone ME15 6JQ
t 01622 602000
w www.digitalmaidstone.co.uk
Minicom 01622 602224

Dear Mr & Mrs Bradley,

TOWN AND COUNTRY PLANNING ACT 1990
LOCATION: 3 Randalls Row, Loose, Maidstone
PROPOSAL: Erection of a rear conservatory

I write to you following the meeting held at your property on 07 December 2009 with yourself, the Council's Conservation Officer Michelle Sadlier and Planning Officer Laura Gregory.

As you are aware, planning permission for the erection for a conservatory on your property was refused under MA/07/0727 for the following two reasons: -

1) The proposed conservatory by virtue of its design, in particular, the pitched roof and double glazing would cause significant harm to the character, appearance and form of the listed building and would detract from the traditional and historic appearance of a terrace of listed buildings, contrary to policy BE6 of the South East Plan 2009 and advice contained within PPG15: Planning and the Historic Environment.

2) The proposed conservatory by virtue of its depth and height, attached to an existing extension would cause an unacceptable overbearing impact on both of the adjoining neighbour's private area of garden, much to the detriment of the residential amenity of the neighbouring properties, contrary to policy CC6 of the South east Plan and advice contained within Supplementary Planning Document: Residential Extensions adopted May 2009.

Following our site visit and having examined the amended proposal I have the following comments to make.

The proposed design is appropriate and acceptable. The reduced amount of glazing and proposed flat roof with roof light above is more sympathetic to the character and form of the dwelling and the traditional and historic appearance of the terrace would be conserved and protected.

On the subject of glazing, as discussed on site, the use of double glazing in listed buildings and Conservation Areas is generally considered unacceptable because of the visual harm it has on the historic appearance of the property. However, on further consideration, given that the extent of glazing proposed has been reduced, and the modern design of the extension clearly distinguishes it from the rest of the listed building I consider that that double glazing or similar products would now be acceptable although I would advise that the two window panes should be very close together, to ensure that the glazing appears in keeping with the main building.

In terms of the of materials finish, I would be happy with either feather-edged weatherboarding or rendering. Although the weatherboarding located along boundaries may have some building control issues which you may wish to investigate further. The Building Control team can be contacted on 01622 60701.

To help the design harmonise a bit more effectively with the historic environment, I have the following recommendations:

- 1) Bring the door glazing to the full length of the door rather than inserting a solid panel at the bottom;
- 2) To line up all of the elements of all of the rear windows, use a dummy casement in the centre;
- 3) To ensure that the details along the roof and wall junction complement the character of the listed building, be sure to provide large scale, detailed drawings with the application.

Provided that these recommendation are taken heed of, I do not raise any objection to the proposal.

On the issue of the impact upon the residential amenity of the adjoining properties, I note that whilst it is now proposed to build the conservatory 700mm from the boundary with No 4 Randalls Row and that the overlooking windows have been removed, the combined depth of the proposed extension and the extension is still unacceptable. I am happy to accept a garden room extension on your property but in view on the impact upon the adjoining dwellings I strongly advise that the combined depth of the rear extensions on your property does not exceed 5m in depth. At this depth and with the proposal to step extension 400mm below the existing floor level, I consider that the overbearing impact on the two adjoining properties would be satisfactorily overcome.

I trust that this letter provides a fair summary of what was discussed. I would stress that the views expressed by the officer at the meeting were informal and do not bind the Members of the Council to any particular course of action or decision.

This letter relates to planning matters only and you are reminded of the need to ensure that you have all other necessary consents before proceeding with any development. In particular you are advised to ensure that your proposals conform to the Building Regulations. Advice can be obtained from the Environmental Health & Building Surveying Manager at the above address. If the

works you propose affect the public highway you are likely to require consent under the Highways Act. Advice can be obtained from the Highways Manager at Kent Highways Services, Doubleday House, St. Michael's Close, Aylesford, Kent ME20 7BU.

If you require further assistance please write again or contact the officer detailed below.

Yours Sincerely,



for Director of Prosperity and Regeneration

Contact: Laura Gregory

t 01622 602490 **f** 01622 602972

e lauragregory@maidstone.gov.uk

APPLICATION: MA/10/0791 Date: 6 May 2010 Received: 16 August 2010

APPLICANT: Mr P Bradley

LOCATION: 3, RANDALLS ROW, HIGH BANKS, LOOSE, MAIDSTONE, KENT,
ME15 0EG

PARISH: Loose

PROPOSAL: An application for listed building consent for erection of single storey rear extension (re-submission of MA/09/0726) as shown on drawing number(s) 05 rev A, 07 Rev A, 10 and 08 Rev A and a site location plan upon drawing no. 01 Rev A received on 10/05/10, drawing no. 09 Rev B received on 16/08/10, drawing no. 01 Rev B received on 23/07/10 and a Heritage Statement received on 21/07/10.

AGENDA DATE: 23rd September 2010

CASE OFFICER: Louise Welsford

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

- it is contrary to views expressed by the Parish Council
- Councillor Sherreard has requested it be reported for the reason set out in the report

POLICIES

Government Policy: PPS5.

1.0 HISTORY

- 1.1 09/0727 and 09/0726 Erection of a single storey rear conservatory (planning and listed building consent applications) – Refused.
- 1.2 These applications were refused for the following reasons:
1. The proposed conservatory by virtue of its design, in particular, the pitched roof and double glazing would cause significant harm to the character, appearance and form of the listed building and would detract from the traditional and historic appearance of a terrace of listed buildings, contrary to policy BE6 of the South East Plan 2009 and advice contained within PPG15:Planning and the Historic Environment.
 2. The proposed conservatory by virtue of its depth and height, attached to an existing extension would cause an unacceptable overbearing impact on both of

the adjoining neighbour's private area of garden, much to the detriment of the residential amenity of the neighbouring properties, contrary to policy CC6 of the South east Plan and advice contained within Supplementary Planning Document: Residential Extensions adopted May 2009. (planning application only).

1.3 The policies of the South East Plan and PPG15 referred to in the reasons for refusal are no longer in existence, however, the issues referred to are still covered in the policies listed above and are discussed below.

1.4 07/0967 Erection of shed/workshop – Approved

1.5 01/0386 and 01/0388 Creation of hardstanding for car and base for summerhouse (planning and Listed Building Consent applications) – Approved

1.6 81/0871 Conservatory – Approved

2.0 CONSULTATIONS

2.1 Loose Parish Council: wishes to see the application refused. The Parish Council agreed that they see no reason to change their stance from last time (applications MA/09/0726 and MA/09/0727). The unsympathetic nature of the proposed plans to a Listed Building, and within the beautiful Conservation Area of Loose, was considered to be unacceptable, as was the overshadowing factor to the neighbouring properties. Strongly urge consideration of the overwhelming effect this added extension will have on the quaint row of historical cottages in Loose.

- These applications are felt to be unsympathetic and unacceptable to a listed historical building, which is situated within the Conservation area of Loose.(contrary to PPG15 section 3.3, 3.13, 3.14)
- The property is being robbed of its current aesthetic character. (PPG15).
- There are major concerns for the overshadowing effect this extension will have on neighbouring properties. (see PPS1 document points 34 & 38 in particular).
- It is felt this extension will have an overwhelming effect to the quaint row of historical cottages.
- This development neither preserves nor enhances the special character of the area.

The Parish Council would also like to point out that items 5&6 on the supplementary statement supplied in relation to heritage asset, clearly fails.

"5. By not affecting the sensitive elements of the heritage asset or its setting"- It is felt that this application clearly does affect the sensitive elements, as this property is listed, within a conservation area, and is situated within an area as designated 'article four'.

"6. By having an appropriate scale and detailing"- It is felt that the scale and style is out of keeping with the size and historical significance of the existing building.

Please consider carefully the effect this development will have; to the building itself which has historical significance within the Conservation Area of Loose, and to local residents.

(Officer comments: PPG15 has now been replaced by PPS5. The proposal is discussed in relation to PPS5 below).

2.2 Maidstone Borough Council Conservation Officer: Wishes to see the application approved, subject to conditions regarding joinery and render mix and colour.

3.0 REPRESENTATIONS

3.1 Councillor Sherreard:

"I have a few deep concerns regarding the impact that the proposed development will have on the neighbouring properties especially considering that all buildings concerned are listed.

Due to the previous development history on this site I feel that any further changes would have a dire effect on privacy and sunlight for the neighbours properties contrary to CC6 of the South East Plan.

I also do not feel that the new application satisfies the reasons for the previous refusal and in fact still runs contrary to BE6 of the South East Plan and PPG 15 – the character of listed buildings.

I know that you have already been made aware that there are also inaccuracies within the application drawings.

Therefore I respectfully ask that you consider refusing this application, however if you are minded to approve it may I request that this is sent to the planning committee".

(Officer comments: The South East Plan and PPG15 have now ceased to be in effect. However, the impact in respect of the now relevant policies in relation to these issues is discussed below. The issue regarding the inaccuracy of the block plan has now been addressed, through the submission of an amended block plan).

3.2 Neighbours: Objections have been received from three neighbouring properties. These raise a number of objections, namely:

- Impact upon the historic environment, including impact upon the Grade II Listed Building, the Listed terrace and the Conservation Area
- Impact upon the Area of Local Landscape Importance
- Residential amenity, including loss of light, overshadowing, overbearing, loss of privacy, outlook and light pollution

- Impact on drains
- Design
- Scale

PLANNING CONSIDERATIONS

4.0 SITE AND SITUATION

4.1 The application site contains an eighteenth century, Grade II Listed, mid-terraced cottage. The front elevation is constructed of red brick in Flemish Bond to the ground floor and white weatherboarding to the first floor, under a plain tiled roof. A rendered rear extension was added prior to 1981, having accommodation upon two floors. Nos. 1-5 within the row are all Grade II Listed, although the end cottage, to the north, known as Forge Cottage, is not listed. The site is located within Loose Conservation Area and the village envelope of Loose. It also falls within an Area of Local Landscape Importance.

5.0 PROPOSAL

5.1 Listed Building Consent is sought for the erection of a single storey rear extension. The extension would have a footprint of approximately 4m x 2.5m. Its walls would be rendered and it would have a flat, felt roof with a raised rooflight.

5.2 This application follows the refusal of application MA/09/0726, which was refused upon the grounds of the impact upon the Listed Building and Listed terrace. The full reason for refusal is given above.

5.3 The main differences between the previous scheme and this scheme are that the proposal has been reduced in scale, from a maximum height of approximately 3.5m to 3m and from a maximum depth of approximately 3.8m to 2.5m. Also, the pitched roof has been replaced by a flat roof.

CONSIDERATIONS

The key issue relating to this proposal is the impact upon the character and appearance of the Grade II Listed Building and the historic environment.

6.0 Historical Impact

6.1 PPS5 seeks the conservation of heritage assets in a manner appropriate to their significance.

6.2 The building is a designated heritage asset, because it is Grade II Listed and also part of a Conservation Area.

- 6.3 The applicant submits that the key elements of the sensitivity of the building are the principal (front) elevation to High Banks, the main roof form to all elevations, (including dormers and materials) and the setting and sense of place to High Banks. I agree with this assessment. The front elevation of the terrace maintains much of its historical character and the appearance of its frontage and its situation within the narrow High Banks gives it a good sense of place.
- 6.4 To the rear elevation, to my mind, a lot of the original character of this building has already been lost due to the existing, unsympathetic extension. The scale of this particular building has already been substantially altered by the said extension. (The small scale of the cottages may be said to be a key feature of some of the other cottages).
- 6.5 The proposed extension is of a simple design and I consider that the following may be said in its support: -
- It would be of a small scale. Its footprint would be only approximately 4m wide x 2.5m deep and its maximum height approximately 3m. Whilst I accept that the cottage itself is relatively small, I nevertheless consider it to be a subservient addition to the existing house.
 - It would have no direct intervention with the original historic structure. It would simply be attached to a modern, and, in my opinion, unsympathetic extension.
 - It would maintain the existing main roof form to the terrace as a whole, which is a positive feature of the terrace in general.
 - It would generally not be visible in the public realm. It would not be visible from High Banks, as it would be to the rear and to Mill Street (to the north west), there is an existing wall and close-boarded fence, which prevents views of the ground floor of the rear of the building. An existing garage to the south-east of Mill Street also prevents clear views.
- 6.6 Importantly, it is also noted that the Conservation Officer raises no objection to the proposal.
- 6.7 As stated, the proposal is of no particular aesthetic merit. However, it is of a simple design, and small scale and although it would be modern in appearance, it would not be attached to the original historic structure. Whilst double glazing is not to be encouraged in listed buildings, the new windows would be to an extension which is clearly modern in appearance and not within the original building. A joinery condition can be attached to ensure high quality joinery details. As stated, given the scale, the extent to which it would be visible in the public realm and the Conservation Officer's comments, the design is, on balance, considered acceptable. The use of render is in keeping with the existing rear extension.

6.8 The previously refused proposal was for a different design and included a pitched roof. Given the points above and the changes proposed to the design, it is considered that the previous reason for refusal has been addressed and that the use of double glazing in this extension of the proposed design would not, on its own justify a refusal which would be sustainable at appeal.

6.9 Taking all of the above into account, it is concluded, on balance, that the impact upon the heritage environment (including the impact upon the Grade II Listed Building, its setting, the Listed terrace as a whole and the Conservation Area) is acceptable.

7.0 Other Issues

7.1 Drainage/the position of mains drains is an issue which is dealt with under the Building Regulations.

7.2 Concerns have been expressed as to the precedent this would cause. As Members will be aware, each case must be assessed upon its own merits. I have assessed this application upon its own merits.

7.3 The impact upon residential amenity and the Area of Local Landscape Importance are not Listed Building issues (they are planning issues).

8.0 CONCLUSION

8.1 Taking all of the above into account, it is concluded, on balance, that the previous reason for refusal has been addressed and that the proposal would not result in significant harm to the character, appearance or setting of the Grade II Listed Building or to the historic environment and Conservation Area.

8.2 Approval is therefore recommended.

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 full details of new external and internal joinery, in the form of large scale drawings, 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.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

3. The development shall not commence until full details of the render mix and colour of the finish of the extension 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.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

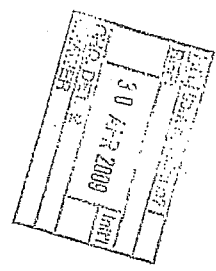
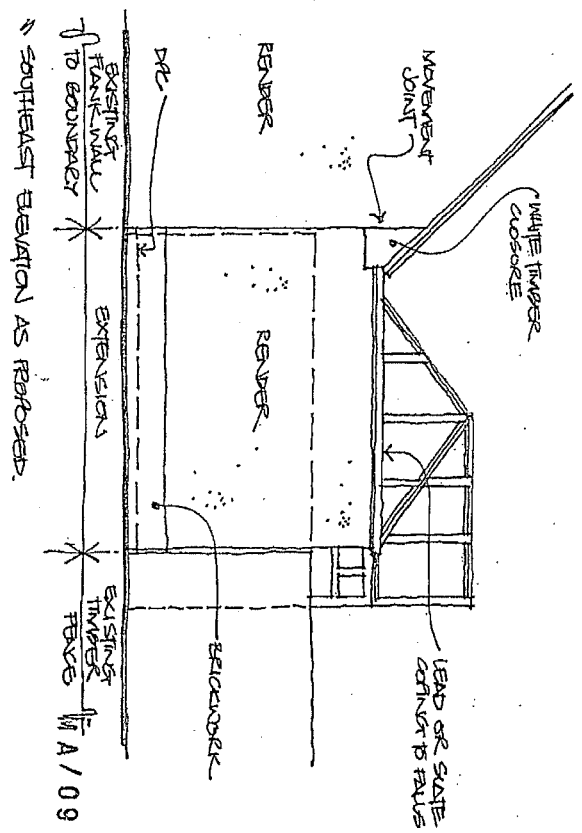
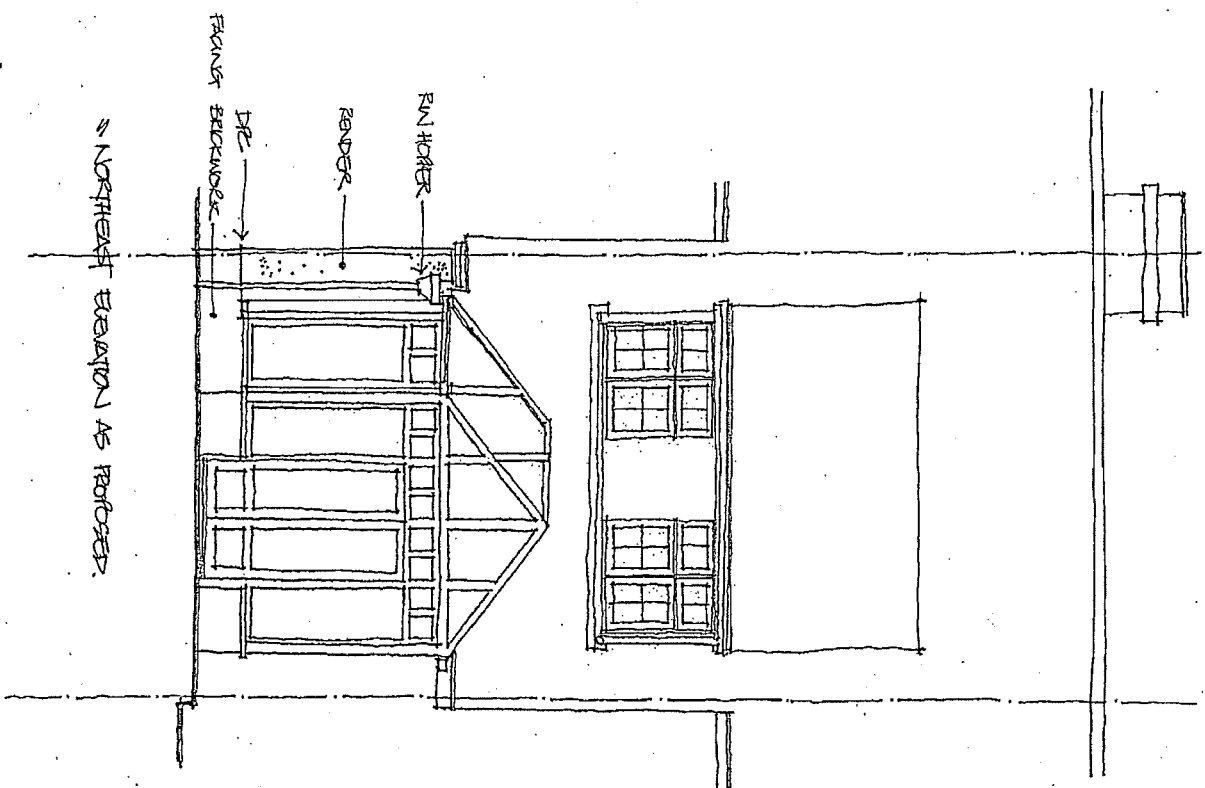
Informatives set out below

Joinery details should show flush casements, with no more than 6mm double glazing.

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 there are no overriding material considerations to indicate a refusal of planning consent.

MA/10/0791

APPENDIX 1 - PREVIOUS SHEETS



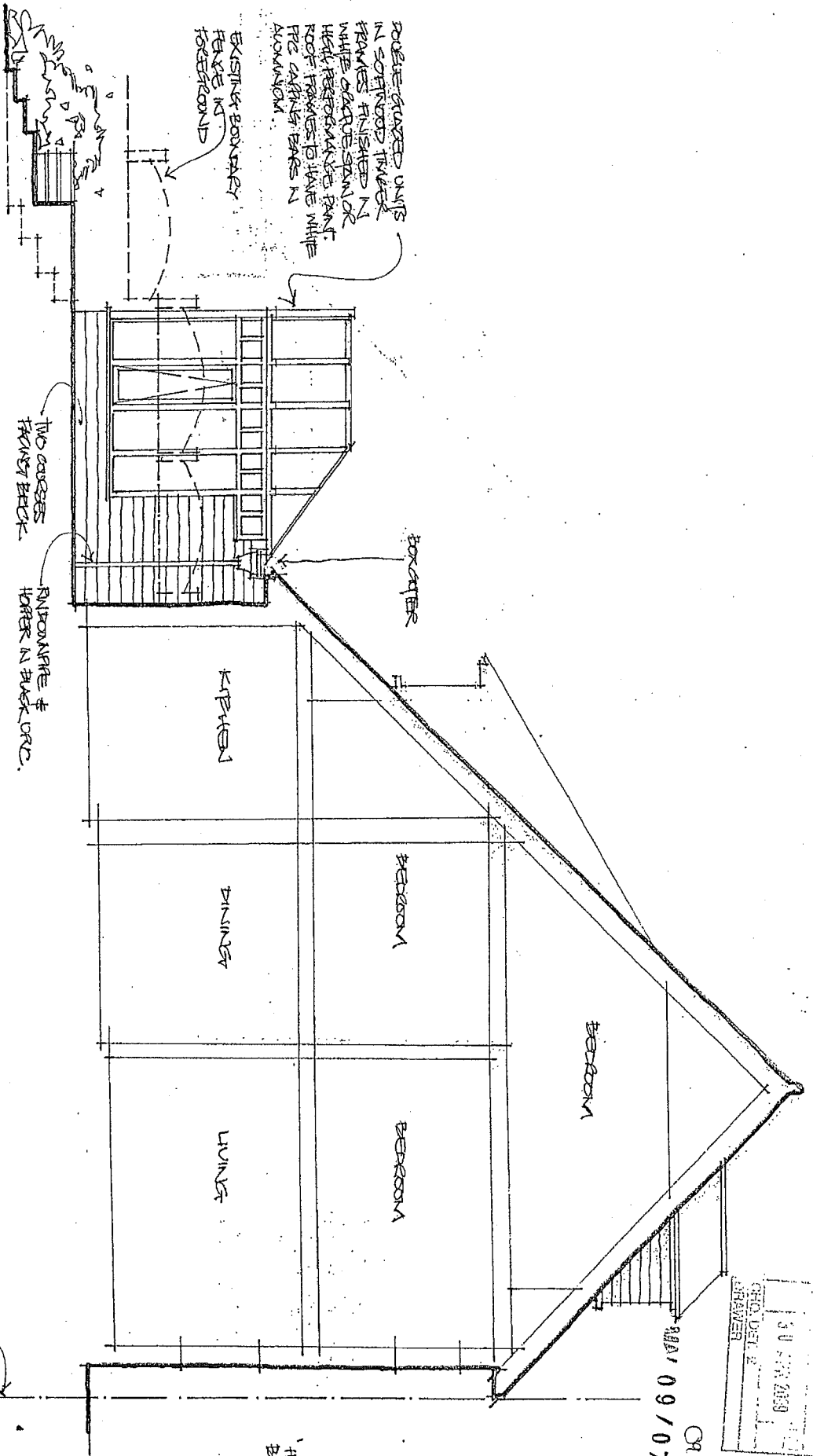
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PROJECT	WINDON REARRANGEMENT & CONSERVATION		
TITLE	ELEVATIONS AS PROPOSED: SHEET 1 OF 2		

SOUTHEAST ELEVATION AS PROPOSED.

MA/09/0726

MA/10/0791

APPENDIX 1 - PREVIOUS SCHEME



NO. WEST SECTIONAL ELEVATION IS PROPOSED.

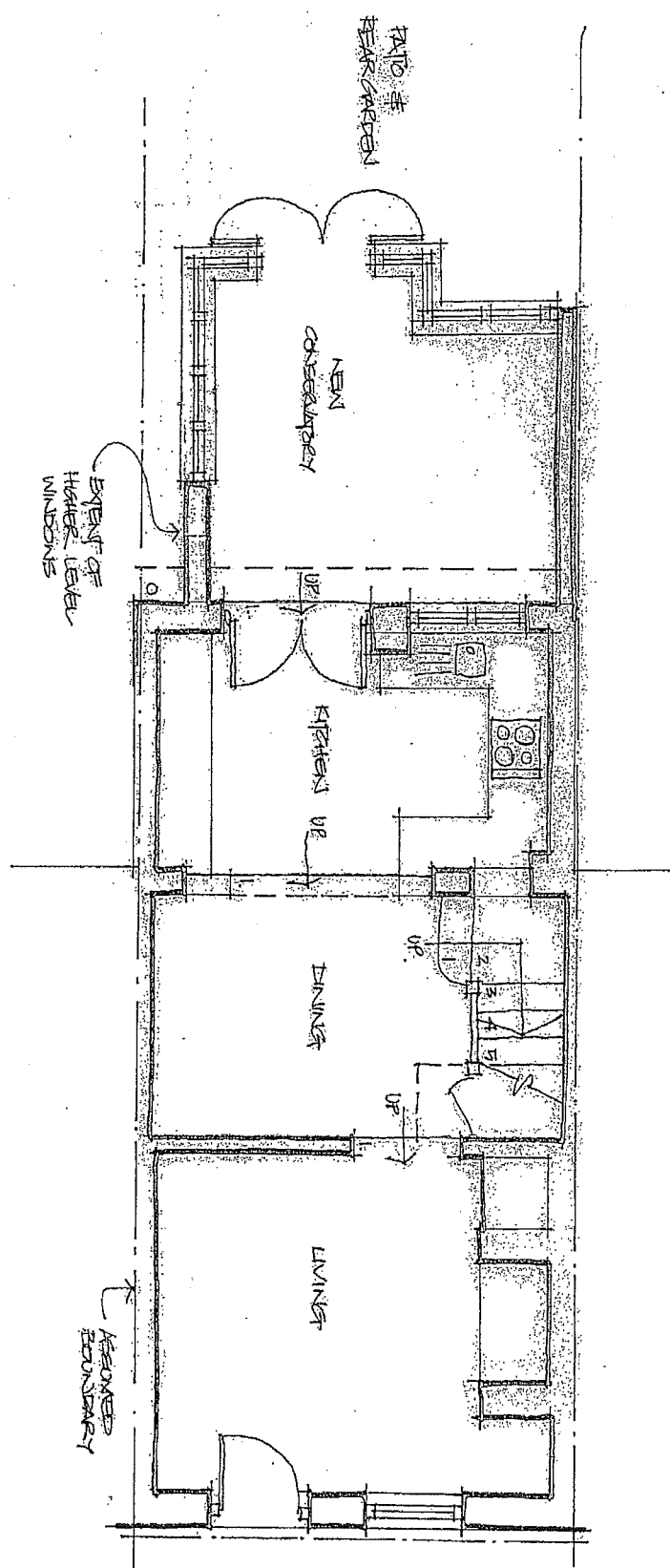
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PROJECT	WINDOW REPLACEMENT & CONSERVATION		170	07
TITLE	NO. WEST SECTIONAL ELEVATION AS PROPOSED			

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 30 SEP 2009
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HEIGHT BANKS 47

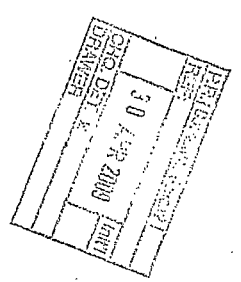
MA/10/0791

APPENDIX 1 - PREVIOUS SCHEME



PROPOSED GROUND FLOOR PLAN.

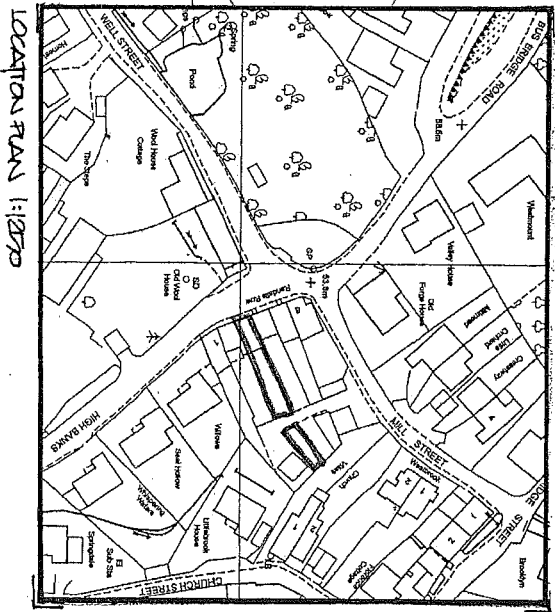
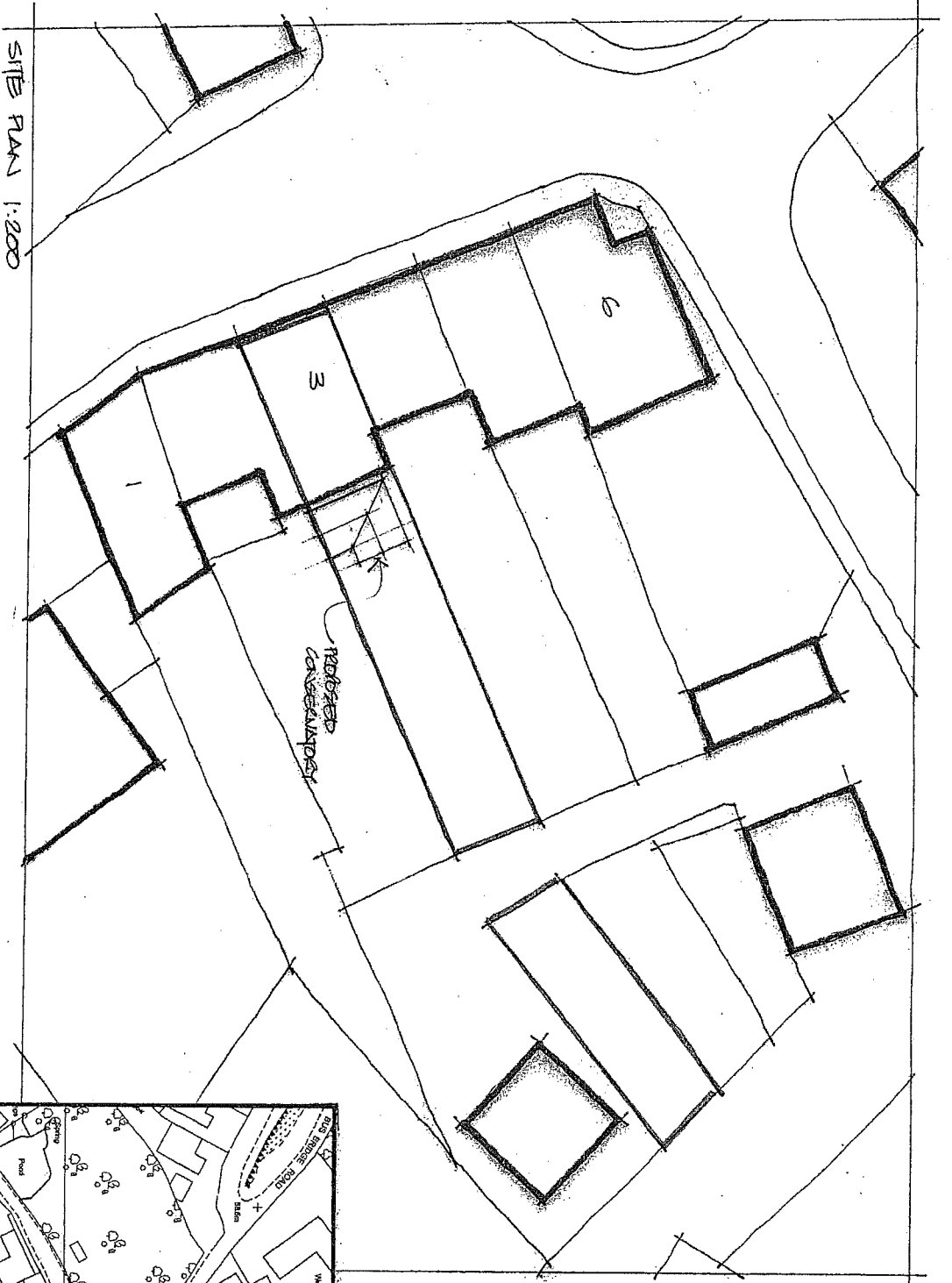
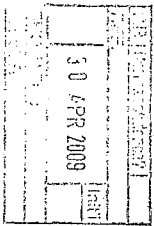
MA/09/0726



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PROJECT	WINDOWN REPLACEMENT & CONSERVATORY	1:70	05	
TITLE	GROUND FLOOR PLAN AS PROPOSED			

MA/10/0791 -
 APPENDIX 1 -
 PREVIOUS SCHEME

MA/09/0726



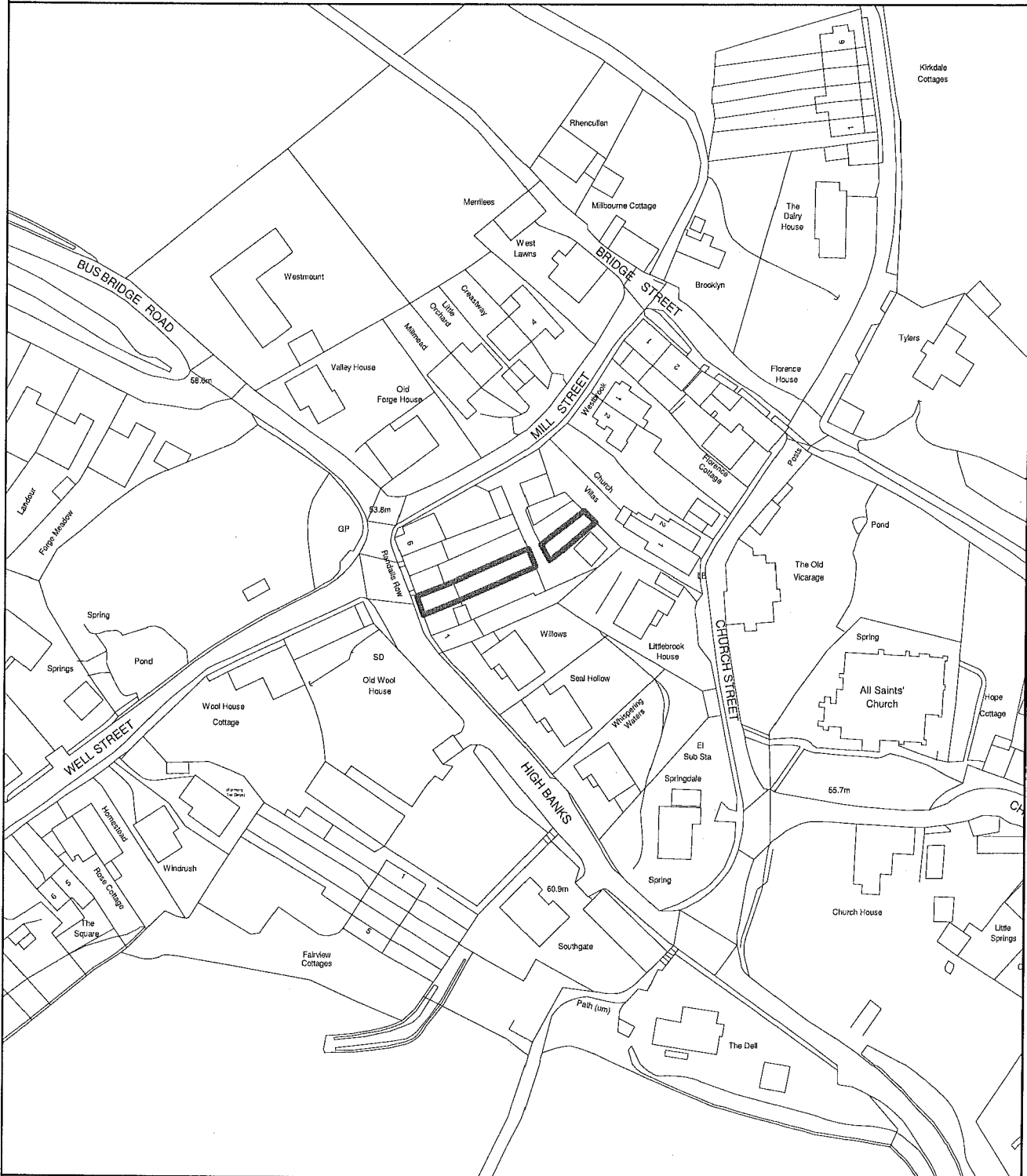
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PROJECT	WINDON RENOVATION & CONSERVATION	1:200 01
TITLE	SITE PLAN & LOCATION PLAN	1:250

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0791

GRID REF: TQ7552

3 RANDALLS ROW,
HIGH BANKS, LOOSE.



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Rob Jarman
Head of Development Management

MA/10/0791

Representation

Loose Parish Council have written to advise that regrettably they will not be represented at Planning Committee due to prior commitments. They send their apologies and state that they wish their objections to be fully considered.

Officer comments

The objections of Loose Parish Council are fully considered within the Committee report.

The applicant has verbally agreed that he is happy to install timber, flush casements, with no greater than 6mm double glazing within the proposed extension. This is in agreement with the details suggested by way of an informative.

I would also like to point out that the number of neighbouring properties which have objected to the proposal is four. (This is incorrectly shown as three in the Committee report). However, the objections are as listed in the report. These were:

- Impact upon the historic environment, including impact upon the Grade II Listed Building, the Listed terrace and the Conservation Area
- Impact upon the Area of Local Landscape Importance
- Residential amenity, including loss of light, overshadowing, overbearing, loss of privacy, outlook and light pollution
- Impact on drains
- Design
- Scale

The relevant objections to this listed building consent application are fully considered within the Committee report.

Recommendation

The recommendation remains unchanged.

APPLICATION: MA/10/0791 Date: 6 May 2010 Received: 16 August 2010

APPLICANT: Mr P Bradley

LOCATION: 3, RANDALLS ROW, HIGH BANKS, LOOSE, MAIDSTONE, KENT,
ME15 0EG

PARISH: Loose

PROPOSAL: An application for listed building consent for erection of single storey rear extension (re-submission of MA/09/0726) as shown on drawing number(s) 05 rev A, 07 Rev A, 10 and 08 Rev A and a site location plan upon drawing no. 01 Rev A received on 10/05/10, drawing no. 09 Rev B received on 16/08/10, drawing no. 01 Rev B received on 23/07/10 and a Heritage Statement received on 21/07/10.

AGENDA DATE: 14th October 2010

CASE OFFICER: Louise Welsford

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

- it is contrary to views expressed by the Parish Council
- Councillor Sherreard has requested it be reported for the reason set out in the previous Committee report

POLICIES

Government Policy: PPS5.

1. HISTORY

- 1.1 See previous Committee report. Planning application MA/10/0790 for a single storey rear extension was approved by Members at Planning Committee on 23rd September 2010.

2 CONSULTATIONS

- 2.1 Please see the previous Committee report and Urgent Update for details of the original comments received. At the previous Planning Committee meeting, Members sought a detailed analysis of the proposal by the Conservation Officer. The following comments have therefore been received since the previous Committee meeting:

2.2 Maidstone Borough Council Conservation Officer:

“3 Randall’s Row is part of a Grade II listed terrace of 5 cottages dating from the late 18th century. It lies within Loose Valley Conservation Area with a number of other listed buildings located nearby.

The extension is proposed to the rear of the property. A number of the dwellings in this terrace have had rear extensions approved in the past, most notably numbers 1 & 5 Randall’s Row, both in 1994. The current extension to 3 Randall’s Row was found to be lawful in 1981 under a Section 53 Determination (MA/81/0871). On conservation grounds, we do not object to the principle of extensions to listed buildings.

The applicants submitted plans for approval of a glazed extension of modern design in 2009 (MA/09/0727 & MA/09/0726), which we recommended for refusal on conservation grounds because we considered the design and form to be out of keeping with the character of the house. We then were involved in on-site pre-application discussions along with a planning officer. This application responds directly to the recommendations we made during those discussions by bringing down the height and depth of the extension while simplifying the details.

There is a great deal of precedent for allowing an extension of modern appearance to a listed building, provided its installation does not negatively affect the special interest of the building, such as involving the unacceptable removal of historic fabric or being of a scale which dominates the listed building. Indeed a suitable modern approach can be viewed as the more “honest” intervention in that it does not present a pastiche of the original. We have recommended approval of extensions with a modern approach even to listed buildings of a higher grade, such as at Grade II* Blue House in East Sutton (MA/07/1944).

Paragraph 178 of the PPS5 Practice Guide states as follows:

The main issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets, alignment and treatment of setting. Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be acceptable for new work to dominate the original asset or its setting in either scale, material or as a result of its siting.

We considered this guidance carefully when we determined to raise no objection to the current proposal subject to conditions.

We felt that the limitations of the site would make a more traditional approach difficult, as an increase in height would be required to accommodate a traditional pitched roof, thus increasing bulk and further impacting the neighbours. Crucially in this case, the proposed glazed extension would be attached to an existing extension which is not considered to be of historic significance due to its age and character; it

therefore does not require the removal of any historic fabric of 3 Randall's Row. The historic appearance of the ground floor of the building has been entirely lost already by virtue of the existing extension. The modestly-proportioned extension proposed is of a simple, modern design which, in our view, does not compete with the existing Grade II listed building and can be easily read as a modern element. In our view, it is in line with the recommendations of PPS5.

The issue of double glazing in listed buildings is an important consideration. As described in the PPS5 Practice Guide (paragraph 152), "*Doors and windows are frequently key to the significance of a building...Secondary glazing is usually more appropriate than double-glazing where the window itself is of significance.*" As the proposed new windows to the rear of 3 Randall's Row are in a sense replacing the existing modern windows of no great significance, we do not view secondary glazing as the only suitable approach in this case.

Furthermore, the very first policy in PPS5 (HE1.1) addresses concerns over climate change, stating:

Local planning authorities should identify opportunities to mitigate, and adapt to, the effects of climate change when devising policies and making decisions relating to heritage assets by seeking the reuse and, where appropriate, the modification of heritage assets so as to reduce carbon emissions and secure sustainable development. Opportunities to adapt heritage assets include enhancing energy efficiency, improving resilience to the effects of a changing climate, allowing greater use of renewable energy and allowing for the sustainable use of water.

While it continues to be our practice to resist the installation of double glazing in existing parts of a listed building, suitably-designed double glazed units have been permitted in some historic buildings, most often in new extensions or conservatories with large amounts of glazing. This approach is, to some extent, an attempt to help satisfy Building Regulations on thermal performance. It is also in line with recommendations in PPS5 policy HE1.1 on improving the efficiency of historic buildings without damaging the character of the older parts.

In recent cases, we have approved the use of a modern type of double glazing often referred to by the company name "Slimlite". The thin gap (6 mm) of these units improves thermal efficiency and reduces carbon output while minimising the impact of the double reflection often considered out of keeping with the character of many heritage structures. Their reduced size also avoids the heavy timber sections usually required by more conventional double glazing.

For example, at Grade II listed East Farleigh House, such double glazing was permitted to the orangerie approved in MA/08/0725 (conditions MA/09/2105). A similar approach was taken at Pollehill Farmhouse in Detling, also Grade II listed, where an orangerie and another extension replaced modern extensions which were

not considered in keeping with the character of the building (MA/08/2194, conditions MA/09/1805).

In the current application, we view the approval of "Slimlite" double glazing – for this extension only – as being an acceptable compromise between the need to protect the special character of the building and the need respond to sustainability concerns. We have recommended a joinery condition so that we can further review the details of the windows with reference to their character and design quality.

As a result of the above, on balance we do not object on heritage grounds to the current applications for the proposed glazed extension at 3 Randall's Row".

3. REPRESENTATIONS

3.1 See previous Committee report and Urgent Update.

4. BACKGROUND

4.1 This application was considered by Members at the Planning Committee on 23rd September 2010. Members resolved to defer the application and sought detailed comments from the Conservation Officer and the Conservation Officer's attendance at the Planning Committee meeting.

4.2 This application also follows the refusal of application MA/09/0726, which was refused on the following grounds:

"The proposed conservatory by virtue of its design, in particular, the pitched roof and double glazing would cause significant harm to the character, appearance and form of the listed building and would detract from the traditional and historic appearance of a terrace of listed buildings, contrary to policy BE6 of the South East Plan 2009 and advice contained within PPG15: Planning and the Historic Environment".

4.3 Subsequent to the previous refusal, the applicant sought pre-application advice upon the acceptability of a revised scheme. An informal meeting was held on site on 7th December 2009, with a Planning Officer and a Conservation Officer and a detailed letter providing informal advice was written to the applicant upon 9th December 2009. This proposal is in line with the Listed Building advice contained within the said letter. A copy of the pre-application advice is attached as an Appendix. (This was submitted with the application).

PLANNING CONSIDERATIONS

5. SITE AND SITUATION

5.1 The application site contains an eighteenth century, Grade II Listed, mid-terraced cottage. The front elevation is constructed of red brick in Flemish Bond to the ground floor and white weatherboarding to the first floor, under a plain tiled roof. A rendered rear extension was added prior to 1981, having accommodation upon two floors. Nos. 1-5 within the row are all Grade II Listed, although the end cottage, to the north, known as Forge Cottage, is not listed. The site is located within Loose Conservation Area and the village envelope of Loose. It also falls within an Area of Local Landscape Importance.

6. PROPOSAL

6.1 Listed Building Consent is sought for the erection of a single storey rear extension. The extension would have a footprint of approximately 4m x 2.5m. Its walls would be rendered and it would have a flat, felt roof with a raised rooflight.

6.2 This application follows the refusal of application MA/09/0726, which was refused upon the grounds of the impact upon the Listed Building and Listed terrace. The full reason for refusal is given above.

6.3 The main differences between the previous scheme and this scheme are that the proposal has been reduced in scale, from a maximum height of approximately 3.5m to 3m and from a maximum depth of approximately 3.8m to 2.5m. Also, the pitched roof has been replaced by a flat roof.

7. HISTORICAL IMPACT

7.1 Further comments have been received from the Conservation Officer, which are included in full above. These comments clearly set out why the Conservation Officer considers that the development would not cause significant harm to the Grade II Listed Building.

7.2 As previously stated, this development would be of a small scale and would be attached to a modern extension. It would not destroy the form of the original historic building, because it would not be attached to it. It would not dominate the existing building in either scale or position and it would not result in the loss of historic fabric. PPS5 does not resist the principle of modern extensions to Listed Buildings, and, as stated by the Conservation Officer, in this case a traditional extension (with a steeply pitched roof) would not be appropriate, as this would be of a greater scale, mass and impact upon both the Grade II Listed Building and adjoining properties. The modern design is simple and due to its low height and

limited depth, the extension would not compete with the existing building, but could be read separately.

- 7.3 The height, massing and bulk of the proposal would be relatively low and, on balance, it is considered that it would not cause significant harm to the Grade II Listed Building, or the listed terrace, in these regards.
- 7.4 Conditions regarding joinery and materials (including the use of lead for the roof) would ensure a good quality of development and appropriate finish. This would ensure that the quality and appearance of the building and the terrace are preserved.
- 7.5 The design, including the flat roof, use of render and use of double glazing is all in accordance with pre-application advice, which was sought by the applicant after the previous refusal.

8. CONCLUSION

8.1 Taking all of the above into account, and also the comments within the previous Committee report and Urgent Update, it is concluded, on balance, that the previous reason for refusal has been addressed and that the proposal would not result in significant harm to the character, appearance or setting of the Grade II Listed Building or to the historic environment and Conservation Area.

8.2 Approval is therefore recommended.

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 full details of new external and internal joinery, in the form of large scale drawings, 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.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

3. The development shall not commence until full details of the render mix and colour of the finish of the extension 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.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

4. Notwithstanding the details submitted in section 14 of the application form received on 10th May 2010, the roof of the extension hereby permitted shall be constructed of lead and shall be maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: To preserve the setting, character and appearance of the Grade II Listed building and the Conservation Area, in accordance with PPS5.

Informatives set out below

Joinery details should show flush casements, with no more than 6mm double glazing.

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 there are no overriding material considerations to indicate a refusal of planning consent.



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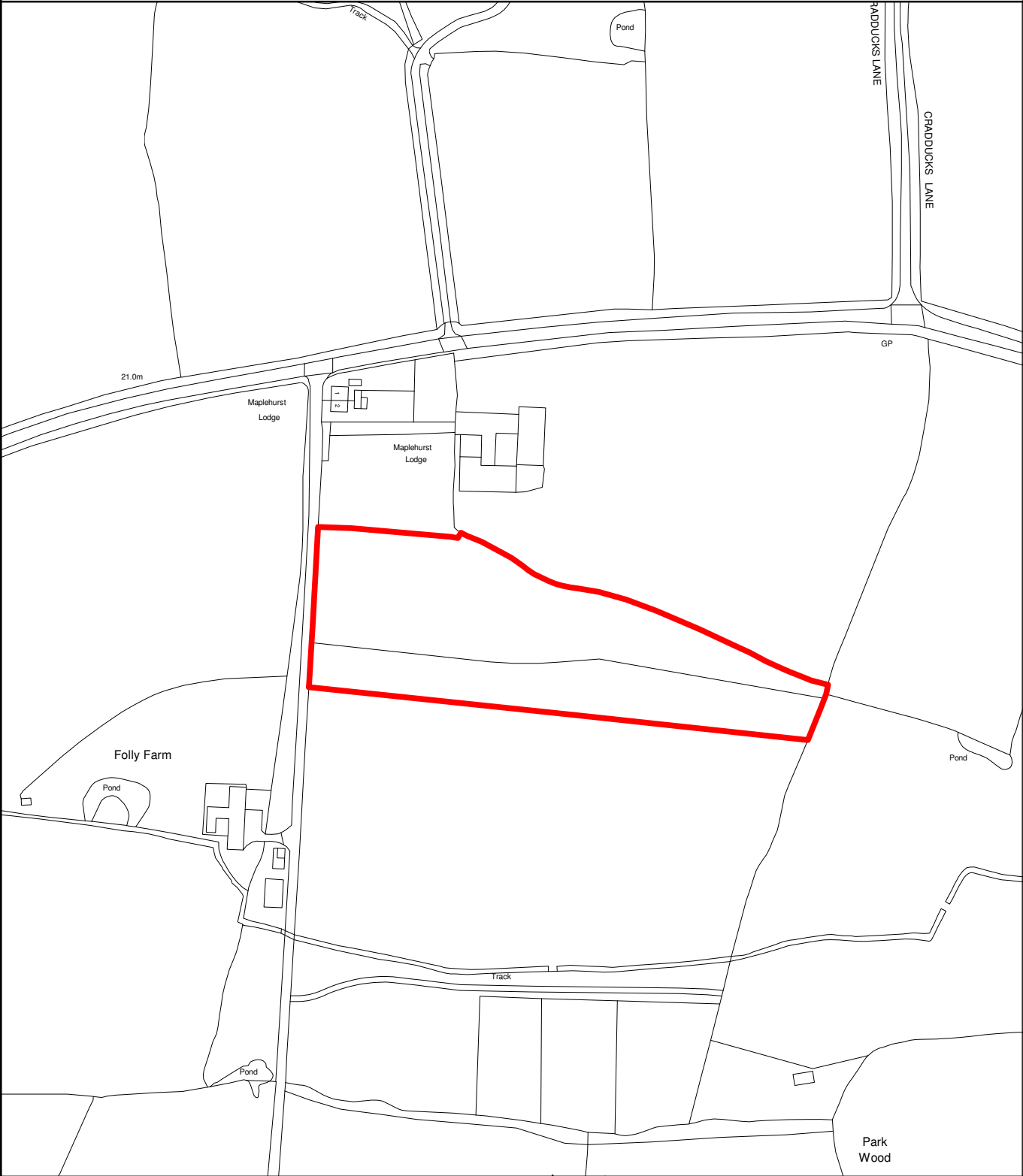
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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0903

GRID REF: TQ7942

**MAPLEHURST PADDOCK,
FRITTENDEN ROAD, STAPLEHURST.**



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/0903 Date: 23 May 2010 Received: 7 June 2010
APPLICANT: Mr J Lee
LOCATION: MAPLEHURST PADDOCK, FRITTENDEN ROAD, STAPLEHURST,
TONBRIDGE, KENT, TN12 0DL
PARISH: Staplehurst
PROPOSAL: Continued use for the stationing of a mobile home, touring caravan,
day room and stables for a gypsy family
AGENDA DATE: 4th November 2010
CASE OFFICER: Richard Timms

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

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

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34
Government Policy: PPS1, PPS3, PPS7
Government Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites

1. HISTORY

MA/09/0504 Extension of existing hard surface to create single vehicle access and erection of 2 stables, hay store and tack room (re-submission of MA/08/2276) – APPROVED WITH CONDITIONS

MA/08/2276 Extension of existing hard surface to create single vehicle access and erection of 2 stables, haystore and tackroom – REFUSED

MA/08/0366 Variation of condition of Appeal decision APP/U2235/C/06/2030038 to allow an additional touring caravan to be stored on the site (not for habitation) – APPROVED WITH CONDITIONS

ENF/9045 Enforcement Notices for the use of the site for residential with hard surfacing, utility building and utility box change – APPEAL ALLOWED, ENFORCEMENT NOTICES QUASHED AND PLANNING PERMISSION GRANTED (July 2007)

MA/06/1298 Erection of stable block and change of use to keeping of horses –
REFUSED

MA/05/0241 Change of use of agricultural land to the keeping of horses, plus creation
of access and erection of a stable block – REFUSED (APPEAL DISMISSED)

2. CONSULTATIONS

3.1 **Staplehurst Parish Council:** Recommend refusal and request that the
application is reported to Planning Committee.

"Whilst the site was kept tidy it remained sporadic and undesirable development in the countryside, had very poor access and was in a flood-risk area. Councillors considered it should not be made a permanent feature of the landscape in advance of the completion of the MBC Gypsy & Traveller Policy. Perhaps a short-term interim extension should be considered. For these reasons Councillors recommended REFUSAL and requested that it be reported to Planning Committee."

3. REPRESENTATIONS

No neighbour representations have been received.

4. CONSIDERATIONS

5.1 Site & Setting

5.1.1 This is an application to allow continued occupation of a residential gypsy site following the expiry of a temporary permission granted at Appeal in 2007 at Maplehurst Paddock, Maplehurst Lane, Staplehurst. The site is located within the open countryside designated as the Low Weald Special Landscape Area (SLA) in the Local Plan and is just over 1.5km from the centre of Staplehurst.

5.1.2 The application relates to an existing gypsy site granted a 3 year, personal permission at an enforcement appeal in July 2007. The site is south of, and set back around 65m from Frittenden Road on Maplehurst Lane which is a private single track road that provides access to other dwellings and gypsy sites (two approved and one subject of an application). The site is on the east side of the lane bounded by open fields on three sides and the lane on the other. The applicant owns adjoining land to the east where he keeps his horses. Around 70m south of the site is a smaller gypsy site for which planning application MA/10/0157 has been submitted and is still under consideration.

5.1.3 Access to the site is in the northwest corner which leads onto a shingle stoned area which is tarmaced further south. This hard surfaced part of the site measures around 16m in width and 50m in length. (Please note the submitted block plan is not accurate) The applicant's mobile home is towards the southern

end of the site with the timber day room in front, near the west boundary. The touring caravan is stored on an area of grass to the rear of the mobile home and a shed and children's climbing frame are to the rear of the mobile on a grassed area. Further east of the site are the timber stables approved under application MA/09/0504, which are tied to the occupation of the site. The site is connected to mains electricity and has a septic tank for sewage disposal.

- 5.1.4 The residential part of the site is bounded by 1.8m close-boarded fencing on the north, west and south sides which is screened by hedging in places. The applicant informs me that he has strengthened the hedging between the fencing and the private lane on the west side.

5.2 Proposed Development & Planning History

- 5.2.1 Permission is sought to continue to live on the site following the expiry of the temporary permission in July 2010. The development is therefore a change of use of land to residential for a gypsy family with the siting of 2 caravans (one being occupied and the other a tourer), a timber day/utility room and hard surfacing. Having spoken to the applicant, I understand a permanent permission is sought.
- 5.2.2 As stated above, temporary and personal permission to Mr Lee, his wife and their children was granted for the site at Appeal in 2007 (Decision attached at Appendix 1). To summarise, in her appeal decision the Inspector concluded that the site did not benefit from a good level of natural screening and the applicant's mobile home would be visually intrusive. However, she considered the development to be domestic and small scale and to follow the pattern of fragmented residential development seen in the area. She also considered the visual harm was limited in scope, very localised and not visually intrusive in the wider area. However, conflict was still found with objectives to protect and enhance the countryside and Special Landscape Area under Local Plan policies ENV28, ENV34 and H36 (no longer saved) and Structure Plan policies.
- 5.2.4 However, taking into account advice within Circular 01/06 the Inspector concluded that there was a clear unmet general need for gypsy accommodation, a personal need for the family and that the site would provide a settled base for them. There were no identified adverse impacts upon residential amenity, highway capacity or highway safety and the site was not in an area recognised to be at a high risk of flooding. The development was considered to respect the scale of the nearest settled community, is outside a nationally designated area and the harm to local countryside character was considered to be limited.
- 5.2.5 In the absence of an alternative lawful site for the applicant, the Inspector noted that a site allocations DPD was being prepared and there was a reasonable expectation that circumstances would change and new sites would be likely to

become available within a three year period. On this basis, whilst accepting visual harm to the countryside, on balance this was outweighed by the need and she allowed a 3 year permission made personal because of the family's immediate personal need for accommodation.

5.2.6 Since that decision the applicant has also obtained permission for a touring caravan on site (not for habitation) and the stable block.

5.3 Assessment

5.3.1 The main assessment for this application to continue to use the site for residential use is the reason for granting the temporary permission in the first place. As such, the appeal decision is a major material consideration. The only policy or guidance available is contained within Circular 01/2006.

5.3.2 The reason for the temporary permission was that visual harm was being caused but this was outweighed by the general and personal need for a residential site and that allocated provision would become available through the DPD after the temporary period of three years.

5.4 Visual Impact

5.4.1 There have been no significant visual changes at the site and I still consider that the development is causing some harm to the area. The mobile home and parts of the fencing are still clearly visible from parts of Maplehurst Lane with some views from Frittenden Road further to the northwest. I agree with the previous Inspector that the harm is localised as the main views are from the private road, but nonetheless it still erodes the scenic quality of the area and causes harm to the countryside and Special Landscape Area hereabouts as was accepted by the Inspector.

5.5 General Gypsy Need

5.5.1 There is a requirement to provide gypsy accommodation and this is set out in Government policy in both *PPS3: Housing* and in *Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites*. To ensure that the Council provides adequate gypsy accommodation a Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned to assess the level of need for gypsy accommodation.

5.5.2 The GTAA concluded that there was a need for gypsy accommodation and quantified that with a figure of 32 new pitches over the five year period from April 2006 to April 2011.

5.5.3 However, this figure assumed that 3 pitches/year would become available on the Council's public sites. In fact pitch turnover on these sites has been very low and

only 3 pitches have become available since 2006 and not the 15 anticipated. With this low turnover the pitch requirement increases to 44 pitches for the whole five year period.

- 5.5.4 With the revocation of the South East Plan, which was to provide pitch numbers for the Borough, the Council now must to set its own housing numbers for gypsy pitches. To establish this provision for the period after April 2011 work is continuing with the gypsy DPD, which will allocate sites and the timetable is likely to run just behind the timetable for the Core Strategy. It is anticipated that sites will be allocated towards the end of 2012.
- 5.5.5 At the time of writing this report the total number of permanent pitches allowed since April 2006 is 51 pitches and can be broken down as follows:-
- 40 permanent permissions
 - 11 permanent personal permissions

In addition there have been the following numbers of temporary permissions granted since April 2006:-

- 8 temporary permissions
- 16 temporary personal permissions

- 5.5.6 Whilst 11 permanent permissions are restricted (personal), so do not meet a general gypsy accommodation need, they have clearly meet a need for accommodation during the 2011-16 period and thus contribute to the supply. As such I consider that 51 permanent pitches (combining unrestricted and personal) have been permitted since April 2006, above the amended 44 pitch target. There are also still 5 months until the end of the assessed period (31 March 2011).
- 5.5.7 Therefore, I consider that the Council is clearly meeting the general gypsy need identified in the GTAA through the development management process for the period 2006-2011. However, with April 2011 approaching it will become increasingly necessary to give weight to the 2011-16 period. Clearly, the need to provide sites does not end in April 2011. However, I am unclear as to what the extra need will be for the period 2011-16.
- 5.5.8 There is another assessment of need that Inspectors give weight to and that is the number of unauthorised sites in the Borough. Currently, the number of unauthorised sites stands at 29. This figure excludes the tolerated sites at Plum Tree Bottom in Stockbury. I consider that this figure does indicate a level of need, however, I do not believe that this indicator of need is necessarily an overriding one.

5.6 Personal Need

- 5.6.1 The applicant, his wife and 2 children live at the site and the children (4 and 7 years old) both attend Staplehurst Primary School. Mr Lee and his family previously lived at a site in Headcorn and so have some local connection and used to travel in Kent and Dorset. Due to overcrowding and family tensions they moved to the application site to bring up the children. The applicant has informed me that as before, he and his family currently have nowhere else to live and there are still tensions with his family. Although he did state that he has not had a thorough search for alternative sites believing that he would face problems in obtaining a permanent permission.
- 5.6.2 There is a lack of alternative accommodation supplied by the Council in Maidstone with no vacancies on the Council's public sites and no sites have been brought forward in a DPD document yet. Unfortunately therefore, the Council cannot direct the applicant to an alternative site. As such, there is a clear personal need of the applicant's family for somewhere to live. Whilst, there is no overriding need to live at this specific site, the family are settled within the community with children in the local school. I consider the lack of alternative sites weighs in favour of the applicant's personal need for a place to live.

5.7 Other Issues

- 5.7.1 I agree with the Inspector that the site is not so unsustainable that it would warrant refusal bearing in mind Circular 01/06 guidance. Journey distances to Staplehurst are short (around 1.5km) which provides access to GP services, education and other services.
- 5.7.2 The site would not have any unacceptable impact upon the living conditions of neighbouring dwellings from outlook or privacy with the nearest houses being 2 Maplehurst Cottages around 50m to the north and Folly Farm around 50m to the south. Previously a generator was used but the site is now connected to mains electricity so there are no significant noise issues.
- 5.7.3 The vehicles movements associated with the site would not result in a large increase above those currently on Maplehurst Lane and onto Frittenden Road. No highway objections were raised previously and I do not consider any grounds to object now. I do not consider continued use of the site would be detrimental to highway safety.
- 5.7.4 Localised flooding was raised as an issue previously, however the site is not located in an area identified as having a high risk of flooding by the Environment Agency. There is no evidence to demonstrate that there are serious implications for living conditions and therefore not sufficient grounds to withhold permission on this basis.

5.7.5 No issues relating to ecology were raised by the Inspector under the appeal in 2007 and I therefore do not see this as a significant issue under this application to renew the permission.

5.8 Conclusions

5.8.1 The site still causes visual harm to the area as it did before but the Inspector felt this could be resolved through alternative site provision via the DPD but work on this is still ongoing. The general need for site provision is not as great as it was in 2007, however there is still an ongoing general need to provide sites and this has still not been met or provided through the DPD process. The applicants still have a personal need for a place to live with no alternative available. Therefore, I do not consider circumstances have changed significantly since the last appeal decision and recommend that a further temporary and personal permission is granted. Sites are expected to be allocated towards the end of 2012 and it will take additional time to gain planning permission for sites. I therefore recommend a temporary permission for a further 3 years.

5.8.2 At the appeal in 2007 the Council put forward conditions requiring a landscaping scheme and protection of trees and hedgerows. The Inspector considered that as the permission was temporary a new landscaping scheme was unreasonable but retention of appropriate landscape features was appropriate. Whilst another grant of permission would further increase occupation of the site, it is still another temporary permission and I agree that it would be unreasonable to impose landscaping conditions on a temporary permission.

5.8.3 However, I can find no record of the site layout details being discharged under the previous permission as required by condition. As the submitted block plan is not entirely accurate I will therefore attach a condition to cover and secure the internal layout of the site, the positioning of the touring caravan/vehicles, boundary treatments and the retention of hedging around the site. This will largely confirm the current layout on an accurate plan for clarification but I consider the touring caravan could potentially be moved closer to the mobile home to reduce visual impact.

5.8.4 For the above reasons I recommend a further temporary and personal permission is granted subject to the following conditions.

5. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mr Lee, his wife and children and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the land is occupied by them, whichever is the

shorter.

Reason: The development is considered to cause visual harm to the character and appearance of the countryside and Special Landscape Area contrary to policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7. This identified harm is considered to be outweighed by the unmet general need for accommodation for gypsies and travellers and the personal accommodation needs of the applicant and there is a reasonable expectation that sites will become available through the production of a Gypsy & Traveller Development Plan Document by the end of the period specified. This is in accordance with advice contained within ODPM Circular 01/2006.

2. When the land ceases to be occupied by Mr J Lee, his wife and children or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought onto the land in connection with the residential use of the site, shall be removed and the land restored to its former condition;

Reason: To appropriately restore the site in the interests protecting the character and appearance of the countryside and Special Landscape Area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

3. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

4. Within 1 month of the date of this decision a scaled plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall show: (a) the internal layout of the site, including the identification of the area to be used for residential occupation, the positions of the caravans within that area and parking provision; (b) boundary treatment, including details of fencing and trees and hedgerows to be retained; (c) any external lighting.

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

5. No commercial or business activities shall take place on the land, including the storage of vehicles or materials;

Reason: To prevent inappropriate development and safeguard the amenity,

character and appearance of the countryside and nearby properties in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

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 there are no overriding material considerations to indicate a refusal of planning consent.



Appeal Decisions

Hearing held on 12 June 2007

Site visit made on 12 June 2007

by **Diane Lewis** BA(Hons) MCD MA LLM
MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
4th July 2007

The Appeals

Land known as **Maplehurst Paddock, Maplehurst Lane, Staplehurst TN12** **ODL**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr J Lee against two enforcement notices issued by Maidstone Borough Council.
- The Council's reference is ENF/9045.
- The notices were issued on 24 October 2006.

Notice A Appeal Ref: APP/U2235/C/06/2030038

- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agricultural to a mixed use of agricultural and the stationing of a caravan in residential occupation.
- The requirements of the notice are (i) stop using the land for the stationing of a caravan in residential occupation, (ii) permanently remove from the land the caravan.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Notice B Appeal Ref: APP/U2235/C/06/2030041

- The breach of planning control as alleged in the notice is without planning permission, operational development comprising of the construction of hardsurfacing, the erection of a timber utility room building and the construction of a brick built utilities box (the approximate positions being shown on the plan attached to the notice).
- The requirements of the notice are
 - i. Demolish and permanently remove the hardsurfacing.
 - ii. Permanently remove from the land all rubble and material resulting from compliance with step (i).
 - iii. Demolish and permanently remove the timber utility room building.
 - iv. Permanently remove from the land all rubble and material resulting from compliance with step (iii).
 - v. Demolish and permanently remove the brick built utilities box.
 - vi. Permanently remove from the land all rubble and material resulting from compliance with step (v).
 - vii. Following compliance with step (i) above, rip the area of ground previously covered by the unauthorised hardsurfacing in two directions to a depth of 300mm, spread topsoil over the ground to a depth of 150mm and re-seed with grass.
- The period for compliance with the requirements (i) to (vi) is three months and the period for compliance with the requirement (vii) is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the

Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeals under ground (a) – the deemed applications

Background

1. The land identified in both enforcement notices as the site covers an area of about 0.76 hectares. The hard surfaced and mown grass areas fronting Maplehurst Lane are being used for residential purposes, served by an access in the north west corner. The caravan, utility building, parking space and small utility box are near to the front boundary along with other household items and a generator. This domestic space is fenced off from the grazing land that becomes narrower in shape as it extends eastwards. The notices are primarily directed at the caravan site use and the associated operational development and hence I will focus on these elements in my decision.
2. The site is in the countryside, in the designated Low Weald Special Landscape Area (the SLA). Maplehurst Lane is a private single track road that provides access to some nine properties¹, which appear to be a mix of residential, farm holdings and gypsy sites. They form a fragmented pattern of development along its length.
3. Mr Lee and his family moved onto the land in September 2006. Mr Lee explained that the families of both he and his wife are gypsies. He has lived all his life in caravans and could not live in a house. He attended school in Headcorn, married at 18 and travelled in Kent and the Dorset area. He has undertaken such work as general dealing, tree surgery, hop picking, trading in scrap metal and so on. He intends to have a more settled lifestyle in order to bring up their children, Phoebe who is now 4 and Sarah Jane who is 14 months old. Mr Lee's gypsy status was not disputed by the Council or third parties and at this point in time I have no reason to come to a different conclusion. I am satisfied that Mr Lee complies with the definition of gypsies and travellers set out in paragraph 15 of ODPM Circular 01/2006 and that having regard to the family group the use of the western part of the site is as a gypsy caravan site.

Planning Policy

4. The development plan for the area includes the Kent and Medway Structure Plan adopted in 2006 (KMSP) and the Maidstone Borough-Wide Local Plan adopted in 2000 (MLP). Relevant policies are those seeking to promote sustainable development, protect and enhance the countryside and the landscape quality of the SLA plus the criteria based policies for gypsy site provision, HP9 in the KMSP and H36 in the MLP.
5. ODPM Circular 01/2006 sets out national policy on *Planning for Gypsy and Traveller Caravan Sites*. Planning Policy Statements on *Delivering Sustainable Development (PPS1)*, *Sustainable Development in Rural Areas (PPS7)* and *Development and Flood Risk (PPS25)* are also particularly relevant.

¹ The nine properties are those identified at the Hearing, a total that excludes Maplehurst Paddock.

Main Issues

6. I consider the acceptability of the site for the development mainly depends on:
- the effects on the local countryside, the living conditions of nearby occupiers and local infrastructure;
 - whether there is a need generally for additional gypsy sites in the district; and
 - consideration of any particular need of the Appellant for a site and his personal circumstances.

Reasons

Countryside location

Policy

7. The development plan seeks to protect the countryside for its own sake, conserve its distinctive character, to restrict development and to ensure where development occurs it does not harm the qualities of the countryside. These objectives are expressed in KMSP policies SP1, EN1 and EN3 and MLP policy ENV28. Whilst KMSP policy HP9 directs gypsy accommodation to urban areas or rural settlements, there is allowance for gypsy sites to be located elsewhere, preferably where there is good accessibility. The policy also requires an established need and compliance with environmental and sustainability criteria. MLP policy H36 does not rule out a countryside location, subject to considerations such as gypsy status and the effect on countryside amenity and character.
8. In this case the location of the site in the Low Weald SLA gives rise to additional requirements. MLP Policy ENV34 requires particular attention, and even priority, to be given to the conservation of scenic quality and landscape character. This approach remains consistent with the primary objective of designating SLAs set out in KMSP policy EN5, although the latter recognises the need to facilitate the social and economic well-being of the communities situated within them. However, the SLA is a local and not a national landscape designation. Circular 01/2006 advises it should not be used in itself to refuse planning permission for a gypsy site and that rural settings are acceptable in principle.
9. My conclusion from this review of prevailing policy is that gypsy sites are a form of development that may be appropriately accommodated in the countryside if there is an established need and compliance with the stated policy criteria. I turn now to look more specifically at the effect of the development on the character and appearance of the site and its surroundings.

Character and appearance

10. The attractive countryside is characterised by a patchwork of fields and pockets of woodland. The fields are mainly of pasture and are typically enclosed by strong hedgerows and mature trees. Built development is generally of a domestic scale and compact form, in a fragmented pattern along the country

lanes. Views are generally well contained by the landscape features and the gentle nature of the landforms.

11. By all accounts before development took place the site was pastureland with trees and hedgerows forming a strong landscape feature along part of the northern boundary and a mature hedgerow along part of the frontage. Therefore it was typical of the local landscape. Change has been concentrated on the front of the plot, where the laying of a hard surface has introduced a material with a harsh appearance and the areas of mown grass have a manicured appearance in contrast to the pasture behind. The caravan, utility building and other domestic paraphernalia do not have a well ordered layout and they lack consistency in materials and overall appearance. Views of the developed area of the site are confined to a short length of Maplehurst Lane, although compared to Perfect's Place and Little Oak Farm the caravan site does not benefit from a good level of natural screening. A larger caravan in the form of a mobile home, which Mr Lee is hoping to have to provide extra space for his growing family, would be more prominent to the extent of being visually intrusive. Attempts have been made to improve the level of screening by planting leylandii, laurel and some privet along the front and side boundaries. Unfortunately, whilst quick to grow and evergreen, such species are more associated with urban locations and they would be alien in the SLA. The effect would be to draw attention to rather than to soften the appearance of the development.
12. However, the development is domestic and small scale, the trees and hedgerows have been retained, along with much of the pasture. It follows the pattern of fragmented residential development seen in the area. Maplehurst Lane is not a public highway and even allowing for its status as a toll ride the development is not as open to public view as say a location on the frontage of Frittenden Road. In this sense any visual harm is limited in scope and the caravan site is not visually intrusive in the wider landscape. Referring to criterion (3) of MLP policy H36, Mr Lee's site is not seen in conjunction with Perfect's Place or Little Oak Farm. Therefore there would not be an undue concentration of gypsy developments to adversely affect the character of surrounding countryside. Undoubtedly the stationing of a caravan would lead to some small increase in activity, associated domestic noise and lighting. In my view the effect of this activity on local character would not be harmful, bearing in mind the single family occupation, the ability to impose planning conditions, the activity from the other properties along the Lane and the location of the site towards the Frittenden Road end of the Lane.
13. In summary, the harm stems from the fairly open nature of the site on the frontage of Maplehurst Lane, the loss of a small piece of undeveloped, unspoilt countryside to a domestic use and the erosion of the scenic quality of the SLA. To achieve a satisfactory standard of boundary landscaping would take a number of years. For these reasons there is conflict with KMSP policy HP9 and criterion (2) of MLP policy H36 on provision of gypsy sites, and with the objectives to protect and enhance the countryside and SLA set out in KMSP policies EN1, EN3 and EN5 and MLP policies ENV28 and ENV34. The harm is very localised and contained, however, due to the small scale of the development and the limited views, even along Maplehurst Lane.

Sustainability

14. Local services are available in Staplehurst, some 2 kms away and also at Headcorn. Whilst it is likely that the car would be the main form of transport, the journey distance is not far and the location of the site enables Mr Lee's family to benefit from easy access to GP services and education at pre-school and primary school.
15. In addition to transport mode and distance from services Circular 01/2006 encourages wider considerations, including social cohesion. Representations have expressed concern that allowing Mr Lee's development would lead to an imbalance between the numbers of residents in the settled community and those in the gypsy community living along Maplehurst Lane. This opinion is not shared by all and other neighbours have voiced support. There may well be individual tensions but in my experience the overall scale of development at issue, even with an additional gypsy family, would still respect the scale of and not dominate the nearest settled community.

Living conditions

16. The appeal site is surrounded by agricultural land, the nearest dwellings being the pair of semi-detached houses known as Maplehurst Cottages at the northern end of the Lane and Folly Farm on the opposite side of the Lane to the south west. In my estimation it would be possible to see the development from the only upper floor window on the side of 2 Maplehurst Cottage. It is also possible to see the caravan and utility building from Folly Farm, more particularly from one of the bedrooms and near the gateway. However, I consider such views would not be harmful to the outlook or privacy of the occupiers because of the generous space separating the dwellings from the site, the obliqueness and limited nature of the views and the small scale of the developed area.
17. A generator has been installed on the site to provide electricity. Even though it has been enclosed, the noise is still audible outside the site. I don't doubt that at certain times in this peaceful rural area it would be disturbing and irritating to near neighbours. It is not a satisfactory arrangement for the Lee family either, not only because of the noise but also the interruptions in supply. However, an alternative source of power is available to Mr Lee, which would be secured should permission be forthcoming. Overall, I conclude the development is located to avoid adverse impact on residential amenity in compliance with KMSP policy HP9.
18. The point has been made that the development, by intruding into the peaceful, unspoilt countryside environment, has infringed residents' rights under Article 8 of the European Convention on Human Rights, the right to respect for private and family life and the home. As explained above I do not consider that any significant harm would be caused to neighbours' living conditions with regard to outlook or privacy. The specific effect of noise from the generator is capable of being resolved, Mrs Lee indicated that they had no need for external domestic lighting and in any event such matters could be subject to control through planning conditions. Therefore adverse effects are not inevitable consequences of the development. At a more general level the effect of the development on the character and appearance of the surrounding area is more appropriately

considered within the context of the wider public interest rather than the rights of individual residents. In view of the particular circumstances I conclude the human rights of individual residents are not at issue and there is no evidence to show the effects of the development would be sufficiently serious to lead to an interference of the rights of neighbours.

Local infrastructure

19. The matters for consideration, which have been raised by local residents, are access and highway safety together with flooding and drainage. No detailed technical information has been submitted and therefore I will rely on local knowledge, consultation responses, my own observations on the site visit and the assessments in the appeal decision on Perfect's Place.

Access and highway safety

20. Maplehurst Lane is not part of the adopted highway network but it is a rural, single track private road providing access to the properties along its length. It is also a toll ride and so it may be used by horse riders seeking to avoid the busier local roads. The Lane joins Frittenden Road, part of the route to the local service centres of Staplehurst and Headcorn. I consider visibility at the junction is likely to be below generally advised standards and the width of the Lane at this point is such that in some situations vehicles travelling in opposite directions would not be able to pass. However such characteristics are typically found in rural areas and although not ideal I would not describe them as presenting a serious hazard if approached with due care. No accidents were brought to my attention and I consider the difficulties described by the occupiers of the cottages are attributable to the specific conditions at these properties – their location at the junction, the restricted space and inability to turn within the curtilages and the parking of a vehicle for transporting horses. This combination of factors does not apply to the appeal site.
21. The vehicular traffic currently using Maplehurst Lane would be mainly that generated by the existing nine properties. The appeal site has the advantage of being near to Frittenden Road and there is good visibility at the gateway and along the Lane to the north and south. There is room to park and turn vehicles within the site and as Mr Lee does not propose to run a business, vehicles would be restricted to those arising from a residential use. The highway authority raised no objections to the development and at the Hearing the Council confirmed it agreed with that opinion. I conclude the number of vehicle movements associated with an additional family would not make a significant difference, whether in terms of safety for all users of the Lane or the character of the Lane.
22. An additional concern was the extra wear and tear to the surface of the Lane. However, the right of Mr Lee to use the Lane was not disputed and he stated that he contributes to its maintenance and upkeep. In my view this consideration has little bearing on the acceptability of the use at issue.
23. My conclusion is that the development at Maplehurst Paddock causes no significant reduction in highway safety, while the likely number of vehicle movements could be accommodated satisfactorily without detriment to free movement by all users of the Lane, its character and capacity. On these matters the development complies with a requirement of KMSP policy HP9.

Flooding and drainage

24. Evidence from residents shows that Maplehurst Lane and adjoining fields suffer at times from waterlogging and localised flooding. The last flooding event was said to have occurred in March 2007, although Mr Lee said it had not affected his site.
25. In general terms caravans intended for permanent occupation are regarded as 'highly vulnerable' to flood risk because of the instability of the structures. They should not be permitted in areas where there is a high probability of river flooding or flooding from the sea or in a functional flood plain. However, the appeal site is not located in such high risk flood areas. The issue has not been within the remit of the Environment Agency and in these appeals the local planning authority has not identified flooding as contributing to the unsuitability of the site. These initial considerations suggest that flooding is not a factor weighing against the development.
26. However, the reasons for the flooding are not entirely clear. One view is that it is primarily related to the main dyke that follows the valley, the pattern of drainage ditches and gradients. In the Perfect's Place appeal decision, the problem was thought to be more related to the condition of the ditches and that significant alleviation may result from ditch clearance and maintenance. Either way, the flooding is a longstanding problem, there is nothing to show that it has been brought about or exacerbated by Mr Lee's development and the solution is not his responsibility or under his control. If the site itself were to suffer from excess surface water, and it has not been shown conclusively that it does, at the least there would be inconvenience to the occupiers. Dependent on the depth of water and length of time of the flooding event there could be more serious implications for living conditions. This uncertainty over the likelihood and nature of any flood event leads me to be cautious over dismissing its significance. That said, the available evidence is not sufficiently strong to justify withholding permission for this reason alone.

General need

27. The Council's evidence included details of the five counts of gypsy caravans between July 2004 and July 2006 for the local authority areas in the South East Region, as well as information specific to Maidstone Borough on planning applications/decisions between 2001 and 2006 and on gypsy site provision. This body of information indicates there is an increasing need for gypsy and traveller sites across the region and in Maidstone Borough. In respect of Maidstone I regard the number of caravans on 'not tolerated' sites, standing at 31 in November 2006, and the continuing pressure for new sites as particularly significant. The two Council owned sites in the Borough are unlikely to offer a solution as they are currently full and have a low turnover.
28. At the Hearing the Council was able to produce the draft final report of the gypsy and traveller accommodation needs survey 2005/6 covering Ashford, Maidstone, Tonbridge & Malling and Tunbridge Wells (the GTAA). The report has yet to be considered by stakeholders, although the Council officer anticipated it would be an agreed document soon, by the end of June. Nevertheless I need to bear in mind its current draft status and the possibility for change. Furthermore in the context of these appeals it would be

inappropriate for me either to question the data base or to assess the methodology adopted. The objective of the study is to provide a starting point for the development of plans and strategies to meet both the backlog of need and the need arising from family formation over the next 5 years.

29. The key conclusion highlighted by the Council is that Maidstone will need to provide 6 or 7 pitches per year over the next five years. A schedule was presented to show that this target has been met over the last year, April 2006-2007. Residents regarded this evidence, that the need is being met, to be all the more relevant in the 'other material considerations balance' in relation to the appeal site. In contrast, the Appellant's consultant drew attention to the caravans on the 'not tolerated sites'. He explained why in his opinion priority in meeting the identified need would be given to other gypsy families before Mr Lee. Consequently his need for a site would remain.
30. The GTAA has concluded that Maidstone Borough has a high level of unauthorised sites along side a strong supply of authorised sites. Furthermore it recognises Maidstone has made a recent significant contribution to an increase in the supply of authorised pitches locally. I consider that the GTAA indicates that a continued increase in supply of sites will be important in order to improve on the existing situation and to make inroads into the current backlog. There are no plans to provide additional local authority pitches within the study area. A supply of pitches on publicly owned sites relies instead on households wishing to move into permanent housing and thus the availability of such housing. Therefore I conclude the main source of new pitches will be through more privately owned sites. Also, the study is a starting point and the challenging aspect is how the projections of need will be met and realised over the next 5 years.
31. The intention is that GTAAs will inform the preparation of Development Plan Documents (DPDs) that form part of the Local Development Framework (LDF). Government policy requires site specific allocations to be made at local level. At the Hearing the Council was unable to provide up-to-date information on the timetable for the Maidstone Borough LDF programme. The last programmed date for the adoption of a DPD on housing need, including allocations for gypsy and traveller sites, was towards the end of 2008. The Council accepted at the Hearing that this was optimistic and the view I gained is that a more realistic date would be 2009/2010. Consequently identification of sites to meet outstanding needs and their subsequent release and development will not be immediate. In the interim a pressing need for private sites remains and this is a consideration of significant weight in the Appellant's favour.

Personal need and circumstances

32. Mr Lee explained that before moving to Maplehurst Paddock, he and his wife and children lived on a site at Gloversbridge, Headcorn, a site occupied by other members of his family. However, because of overcrowding and family tensions he needed to find an alternative site where they could bring up their children. Their daughter Phoebe, who is now 4 years old, has been attending Headcorn pre-school and is due to start at Staplehurst primary school in September. The County Council had confirmed to him that at present there are no vacancies on local authority sites and Mr Lee says his family have no alternative site to move to.

33. The Council confirmed at the Hearing that there is the maximum permitted number of caravans on the Gloversbridge site, although no application had been made for any additional caravans. There was no suggestion that the family tensions involved any form of physical harm or violence. Accordingly this site cannot be entirely ruled out as an alternative, although I recognise that to return there may not be an option Mr Lee would wish to pursue and planning permission would need to be secured first. Mr Lee said that when he first bought Maplehurst Paddock he had no intention of living there and so it appears to have been an easy option to take up when circumstances changed. There was no evidence that efforts had been made to look for another site.
34. That said, I consider that a settled base for the family is important, particularly in view of two very young children and the need to encourage Phoebe to regularly attend school. Such objectives could be equally well met by another site, a point that was not disputed at the Hearing. However, as I have explained, the Council has yet to adequately address gypsy and traveller site provision and to guide the allocation of sites in a DPD. The history of unauthorised sites in the district and the various planning constraints suggest that Mr Lee would have difficulty in finding an alternative appropriate site for his family. Dismissal of the appeals would mean the Lee family would have to remove their home from the site. As there has been no suggestion as to where else they could lawfully go this would be a serious interference with their human rights under Article 8. I do have to take into account though that the home was established without planning permission and therefore the Appellant's position is less strong.

Conclusions

35. Looking first at the criteria based policies for gypsy site provision, the Appellant has gypsy status and the resultant level of gypsy site development would not adversely affect the character or amenity of the area. Therefore the conflict with MLP policy H36 is the unsatisfactory natural screening of the site, even allowing for new planting. A need for gypsy accommodation has been established. The site avoids adverse impact on residential amenity, highway capacity and highway safety. On all these matters there is compliance with KMSP policy HP9. I also consider that in a rural context the site is reasonably accessible to local service centres, even though it is located outside a settlement with little choice of transport mode. Consequently conflict with the policy objectives primarily arises from the harm to countryside character. The priority attached to the landscape quality in the SLA by KMSP policy EN5 and MLP policy ENV34 is not determinative because of the caution on local landscape designations expressed in Government policy through PPS7 and Circular 01/2006. Nevertheless, the overall balance of the development plan is against the development, when account is also taken of the objectives of KMSP policies EN1 and EN3 and MLP policy ENV28 to protect and enhance the local distinctiveness of the rural environment.
36. Circular 01/2006 encourages consideration of a broad range of factors in assessing gypsy site provision. The site would provide a settled base that reduces the possibility of environmental damage caused by unauthorised encampments and it enables the Lee family to regularly access GP services and schools. The development respects the scale of the nearest settled community and it does not place undue pressure on local infrastructure. It is outside

nationally designated areas and the harm to local countryside character is not serious. The site is not located in an area recognised to be at a high risk of flooding, although there are localised flooding issues that could make the site unsuitable. Further detailed study is required to come to a well informed conclusion on the flood risk.

37. There is a clear unmet need for gypsy sites in the Maidstone area and within this context the Lee family also have a need for a site. There is no lawful provision available to them in the short term and little direction where a new site would be suitable. In such circumstances dismissal of the appeal could well lead the family to resort to unauthorised roadside camping, generally acknowledged to be detrimental to health, educational attainment and wasteful of resources.
38. Weighing up all these considerations my conclusion is that the appeal site does not fully comply with the principles encouraging sustainable development in terms of safeguarding the local distinctiveness of the rural environment, its location in relation to settlements and the risk of flooding. Personal circumstances do not raise special health or educational requirements and the needs of the Appellant and his family could be met by another site. On balance I am not satisfied that a full planning permission is justified.
39. However, the identified harm is not severe such that it should be remedied in the time scale suggested in the compliance periods of three and four months. This would be a disproportionate response when currently there is no alternative lawful site for Mr Lee's family to occupy. It may well be that the Council, or neighbouring local authorities, will in time identify sufficient suitable sites to meet unmet need. Progress is being made on the LDF, including the preparation of a site allocations DPD. In this context there has to be a reasonable expectation that circumstances will change. New sites are likely to become available within a three year period. Accordingly temporary permissions for the caravan site and associated operational development would be consistent with advice in Circular 11/95 *The Use of Conditions in Planning Permissions* and the guidance in Circular 01/2006. The Appellant would also have an opportunity to fully explore with the local authorities what options are available to him and to look himself for another site.
40. The Council expressed a preference for an extended period of compliance but given the length of time involved, temporary permissions would be the more appropriate and reasonable way forward thereby allowing planning conditions to be imposed. Therefore the appeals on ground (a) succeed to this extent. I consider this outcome to be a proportionate response in the circumstances. The protection of the public interest cannot be achieved by means which are less interfering of the Appellant's rights and hence there would not be a violation of the family's rights under Article 8.

Planning Conditions

Notice A

41. Following on from my conclusions on the planning merits in paragraphs 38 and 39 above I shall attach a condition limiting the permission to three years. The immediate personal need of the Appellant and his family has been important in tipping the balance in favour of a temporary permission and therefore I also

intend to make the permission personal. A condition will provide for a single caravan to be stationed on the land to reflect the terms of the alleged breach, and to ensure the development remains small scale with a limited visual effect on the local landscape. In the circumstances I regard this as reasonable, particularly as Mr Lee is able to store his touring caravan elsewhere. The requirement for details to be submitted of the site layout, the method of sewage disposal and boundary treatment and any external lighting is necessary to safeguard the rural character of the site and its surroundings. The Council has put forward conditions requiring a landscaping scheme and protection of trees and hedgerows. I consider that because of the temporary nature of the permission a landscaping scheme is unreasonable, whilst retention of appropriate landscape features may be secured through the submitted details of boundary treatment.

42. A condition preventing commercial use is necessary in order to safeguard the living conditions of nearby occupiers and the peaceful character of the surroundings, and to minimise the visual impact of the development. Similarly, to safeguard amenity, I have included a condition to control noise from the generator, should it be retained. Other legislation exists to control bonfires and the burning of rubbish and therefore it is not necessary for control to be exercised through a planning condition.
43. Removal of permitted development rights should only be done in exceptional circumstances. The Council is seeking to control over minor operations and over temporary buildings and uses (Schedule 2 Parts 2 and 4 of the GPDO). I consider such control is unnecessary in this case when account is taken of the types of development covered by Parts 2 and 4, the proposed condition on a site development scheme and the operational development dealt with under notice B. The same considerations apply to the Council's suggested condition 11, which would also be unnecessary.

Notice B

44. The conditions put forward by the Council provide a starting point. However, I have had in mind the need for consistency and avoidance of duplication with the conditions related to the use, and the need to ensure conditions are directed only at the operational development in question. Therefore controls on landscaping, tree and hedgerow retention and removal of permitted development rights are unnecessary. I also consider that it is not necessary to require a scheme showing details of the hardsurfacing and the timber utility building, mainly because the permission is pursuant to the deemed application. Therefore I intend to attach two conditions.
45. The first is to control the time period of the permission in line with that for the permitted use. Also, for the sake of consistency, it is necessary to prevent commercial use of the hardstanding. The objectives of these conditions are to allow time for allocation of gypsy sites through the DPD, to limit the harm to the landscape and to protect residential amenity.

Overall Conclusion

46. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should succeed on ground (a) and planning

permissions will be granted. The appeals on ground (g) do not therefore need to be considered.

Formal Decisions

Notice A Appeal Ref: APP/U2235/C/06/2030038

47. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at Maplehurst Paddock, Maplehurst Lane, Staplehurst, as shown on the plan attached to the notice, for a mixed use of agricultural and the stationing of a caravan in residential occupation, subject to the following conditions:

- 1) The use hereby permitted shall be carried on only by Mr J Lee, his wife and children and shall be for a limited period being the period of three years from the date of this decision, or the period during which the land is occupied by them, whichever is the shorter.
- 2) When the land ceases to be occupied by Mr J Lee, his wife and children or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought onto the land in connection with the residential element of the mixed use, shall be removed and the land restored to its former condition.
- 3) No more than one caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of the residential element of the mixed use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 2 months of the date of this decision a site development scheme shall have been submitted for the written approval of the local planning authority. The scheme shall address: (a) the internal layout of the site, including identification of the area to be used for residential occupation, the position of the caravan within that area and provision for parking; (b) the means for the disposal of sewage; (c) boundary treatment, including details of fencing and trees and hedgerows to be retained; (d) any proposed external lighting on the boundary of and within the site; (e) a timetable for the scheme's implementation.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

- iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) Any mobile electricity generator to serve the residential use hereby permitted shall be so installed and enclosed with sound-insulating material and maintained in a way which will minimise transmission of noise and/or vibration beyond the boundaries of the site.

Notice B Appeal Ref: APP/U2235/C/06/2030041

48. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of hardsurfacing, the erection of a timber utility room building and the construction of a brick built utilities box on land at Maplehurst Paddock, Maplehurst Lane, Staplehurst referred to in the notice, subject to the following conditions:

- 1) The hardsurfacing, the timber utility building and the utilities box shall be removed when the land ceases to be occupied for residential purposes by Mr J Lee, his wife and children or at the end of three years from the date of this decision, whichever shall first occur, and the land restored to its former condition in accordance with a scheme of work and timetable submitted to and approved in writing by the local planning authority.
- 2) No commercial activities, including the storage of materials, shall take place on the hardsurfaced area.

Diane Lewis

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Donald Kenrick	146 St Johns Road, Isleworth
Mr J Lee	Maplehurst Paddock
Mrs Lee	Maplehurst Paddock

FOR THE LOCAL PLANNING AUTHORITY:

Jon Lawrence	Planning Officer (Enforcement) Maidstone Borough Council
Joanne Empett	Planning Officer, Maidstone Borough Council

INTERESTED PERSONS:

Marita Jones	Brachers Solicitors on behalf of the East Weald Conservation Association
Michael Pounds-Longhurst Mr and Mrs Gallant	Folly Farm, Maplehurst Lane, Staplehurst 1 and 2 Maplehurst Cottages, Frittenden Road, Staplehurst TN12 0DL
Mr and Mrs Armytage Mr and Mrs Campbell	Maplehurst, Staplehurst TN12 0DL Maplehurst Bungalow, Frittenden Road, Staplehurst TN12 0DL
Georgie Collins	Staplehurst Parish Council

DOCUMENTS submitted at the Hearing

Document 1	Letter of notification of the Hearing
Document 2	Appeal decision for Maplehurst Paddock ref APP/U2235/A/05/1189676 dated 2 February 2006
Document 3	Appeal decision for Perfect's Place ref APP/U2235/C/05/2005985 dated 24 October 2006
Document 4	Plan of the Special Landscape Area near Staplehurst
Document 5	Plan of planning constraints in Maidstone Borough
Document 6	Letter from Kent County Council submitted by the Appellant
Document 7	Three letters in support of the development submitted by the Appellant
Document 8	Letter from Staplehurst School submitted by the Appellant
Document 9	Letter from Headcorn Pre-School submitted by the Appellant
Document 10	Information from Headcorn Surgery submitted by the Appellant
Document 11	Gypsy and Traveller Pitches granted April 2006 to present day submitted by the Council
Document 12	Gypsy and Traveller Accommodation Needs Survey 2005/6 draft Final Report

PLANS

Plan A	Plan attached to Enforcement Notice A
Plan B	Plan attached to Enforcement Notice B

PHOTOGRAPHS

Photo 1	Photographs to show flooding on Maplehurst Lane taken 5 March 2007 and submitted by the East Weald Conservation Association.
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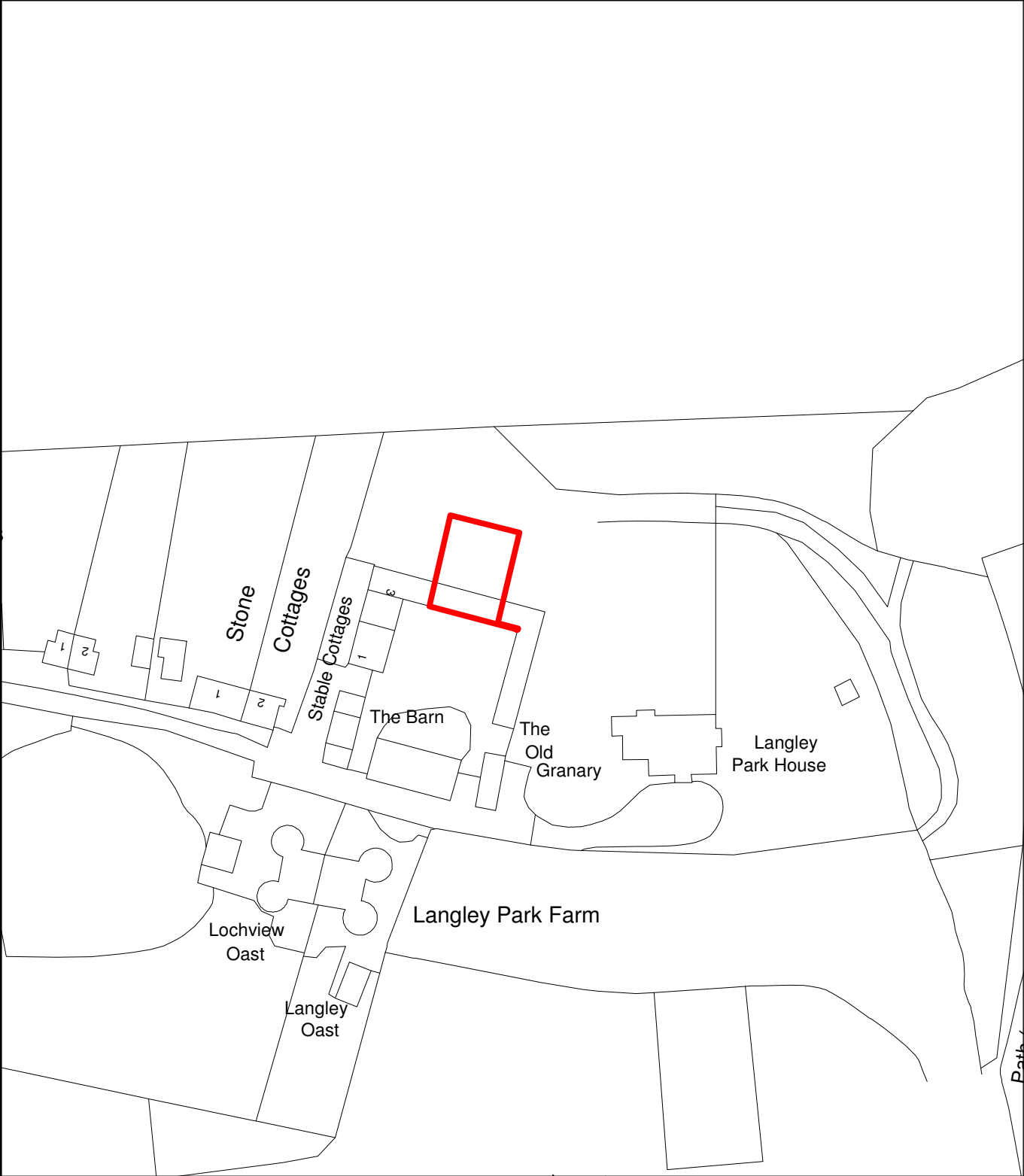
30.06.2010

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0966

GRID REF: TQ7951

**LANGLEY PARK FARM,
SUTTON ROAD, LANGLEY.**



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**Rob Jarman
Head of Development Management**

APPLICATION: MA/10/0966 Date: 3 June 2010 Received: 13 August 2010

APPLICANT: Mr P Carter

LOCATION: LANGLEY PARK FARM, SUTTON ROAD, LANGLEY, MAIDSTONE,
KENT, ME17 3NQ

PARISH: Langley

PROPOSAL: Change of use of outbuilding to a single dwellinghouse and
associated alterations

AGENDA DATE: 4th November 2010

CASE OFFICER: Louise Welsford

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

- it is a departure from the Development Plan and has been advertised accordingly.

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28.

Government Policy: PPS1, PPS3, PPS5, PPS7, PPG13, PPS23.

1 HISTORY

1.1 The following applications apply to the complex:

MA/86/0079 Two stables and part of a cow shed to be converted to 3
residential units - APPROVED

MA/85/1399 Conversion of farm building into residential accommodation -
APPROVED

MA/85/0128 Change of use of farm buildings to light industrial/craft
workshops - WITHDRAWN

2 CONSULTATIONS

2.1 Langley Parish Council: Do not wish to comment.

2.2 Conservation Officer: Initially requested a Heritage Statement and had concerns regarding fenestration. Changes to window and door openings

were originally shown to be of inappropriate scale and design and the drawings showed changes to other parts of the complex which are not proposed. Subsequent to the submission of a Heritage Statement and revised plans, no objection is raised. "The revised plans now submitted overcome our previous reservations and are acceptable in terms of the alterations now proposed. No objection to the principle of change of use, given that other parts of this farmyard are already in residential use and the site is within an established residential enclave. In the circumstances, residential use is the most appropriate way of ensuring the future wellbeing of the building".

- 2.3 Environmental Health Manager: No objections. Recommends a condition regarding contamination.

3 REPRESENTATIONS

- 3.1 None received to date.

4 CONSIDERATIONS

SITE AND SITUATION

- 4.1 This application relates to part of a range of former agricultural buildings. Originally stables and cattle sheds, the building is shaped like a letter 'u' and faces onto a planned courtyard. To the south are other former agricultural buildings, including barn, granary and oast. Langley Park House (Grade II Listed) the former farmhouse, lies to the east of the site.
- 4.2 The site is part of a residential planning unit which comprises Langley Park House (dwelling) and part of the former cattle sheds building, which is in residential use for domestic storage, garaging and workshops, associated with Langley Park House.
- 4.3 The subject building was constructed circa 1850, as part of a planned courtyard. It is Grade II Listed, and the list description advises that it is a relatively uncommon survival in Kent. This application relates to the cattle shed section of the building. This is constructed of ragstone to the north elevation, with stained featheredge weatherboarding upon brick plinths between ragstone plinth blocks to the south elevation, facing the courtyard. Three sets of garage doors face the courtyard. The roof is covered with plain tiles.

- 4.4 The site forms part of the northern leg of the building. The eastern leg of the building is in use for domestic storage, garaging and workshop use associated with Langley Park House. The western leg of the range and the western part of the northern leg are in use as three separate residential dwellings.
- 4.5 The barn, granary and oast house, all originally associated with the farm have all been converted to residential use as dwellings.
- 4.6 The site lies in the open countryside in the parish of Langley. It also falls within the Southern Anti-Coalescence Belt.
- 4.7 Although designated as open countryside in the Local Plan, to my mind, the immediate surroundings are not of particularly rural character. Indeed, it is not an isolated or open area, but instead, the building is seen as part of a group of residential properties, comprising the farm house, other converted farm buildings and a number of cottages to the west of the site.
- 4.8 As the crow flies, the site is located less than 500m from the boundary of the urban area of Maidstone. Between the Langley Park area and the urban boundary lies a golf driving range. The access track leading to the site from Sutton Road is located almost immediately adjacent to the urban boundary.

5 PROPOSAL

- 5.1 Planning permission is sought for the conversion of an existing residential storage and workshop area to a separate residential dwelling. The existing and proposed uses are residential and the proposal seeks in essence to create a separate planning unit, to be used as a dwelling.
- 5.2 The relevant section of the northern leg of the range has a floor area of approximately 60m² and would comprise living room, kitchenette, bathroom, bedroom and small hall.
- 5.3 No extensions to the building are proposed. Alterations involve the addition of internal partitions (which do not require planning permission) and changes to fenestration. To the north elevation, two windows and a stable door would be added, whilst to the south, two sets of existing garage doors would be removed, with the third set being retained as shutters, with glazing being inserted behind the doors in the opening. A single new door would also be added and weatherboarding would be used to infill the openings which would be closed.
- 5.4 As the proposal would close off the existing access to the remaining workshop area, new garage doors would be added to that area, further eastwards along the elevation.

6 PLANNING CONSIDERATIONS

PRINCIPLE

- 6.1 The most relevant policy of the Local Plan in this case is ENV28. This policy advocates the protection of the countryside and importantly it states:
"IN THE COUNTRYSIDE PLANNING PERMISSION WILL NOT BE GIVEN FOR DEVELOPMENT WHICH HARMS THE CHARACTER AND APPEARANCE OF THE AREA OR THE AMENITIES OF SURROUNDING OCCUPIERS..."
- 6.2 In my opinion, this is the key section of the policy, because it states its purpose – to protect the visual appearance of the countryside and the amenity of neighbouring occupiers.
- 6.3 I therefore consider that it is important to assess whether any material harm would result from the development. The key issues to be considered in this regard are visual impact upon the countryside, impact upon the listed building, residential amenity and sustainability. These issues are discussed in detail below.
- 6.4 Policy ENV28 also gives a number of types of development to which development in the countryside will be confined. This includes (amongst other things) agriculture and recreation and also "such other exceptions as indicated by policies elsewhere in this plan". None of the exceptions apply to this proposal.
- 6.5 Consequently, the proposal does not strictly accord with the Local Plan, because it is not the type of development which the Local Plan states can be carried out in the countryside.
- 6.6 However, whilst the proposal does not in principle accord with the Development Plan, as stated, it is important to assess whether any material harm would result from the development and also, whether there are any other material considerations which would indicate a decision contrary to the Development Plan.
- 6.7 It is also to be noted that the existing use of the building is Class C3 (residential) use. Whilst use as a separate dwelling would result in an intensified use of a level which would require planning permission, other residential uses – for example, a low key tourism use for a short period of occupancy – are unlikely to require planning permission.
- 6.8 As this building is already in residential use (and the proposal essentially seeks to sever it from Langley Park House to create an independent dwelling), Policy ENV45 of the Local Plan is not directly relevant, because

this is generally concerned with the conversion of non-residential buildings to residential use.

7 Visual Impact upon the Countryside

- 7.1 The proposal has been sensitively developed, in consultation with the Planning Officer and Conservation Officer, to produce a scheme which would preserve the rural character and appearance of this former agricultural building and the positive contribution which the building makes to the visual amenity of the countryside.
- 7.2 The simple form of the building would be maintained, as no extensions are proposed, and changes to fenestration are generally sympathetic (more detail upon the impact upon the listed building is given below).
- 7.3 Parking would not cause visual harm to the countryside, because this would take place within the existing gravelled courtyard, which is already used for this purpose.
- 7.4 A patio area already exists to the north of the building and this is shielded on two sides by existing hedging. Further hedging could be planted to the third side to separate the site from the gardens of Langley Park House.
- 7.5 Therefore, no urbanisation, through the addition of hardstanding or fencing, would occur.
- 7.6 The proposed use as a dwelling would be more intense than the existing use for domestic storage. However, this would only be a single small unit, and the patio area is already surrounded by gardens to Unit 3 and Langley Park House. In my opinion, therefore, the visual impact of domestic paraphernalia associated with the more intense use would not cause significant harm to the character or appearance of the countryside.
- 7.7 Most importantly, the existing character of the countryside in this location must be considered. This site is not a typical open, rural site, in an isolated location. Indeed, in my view, it already appears as part of a small residential community. (There are already more than 10 residential properties within the road). It is located only a short distance to the east of a golf driving range and also Parkwood Industrial Estate, further to the west, lies in fairly close proximity to the site.
- 7.8 I conclude that this proposal would result in no material harm to the character, appearance or openness of the countryside.

8 Impact upon the Listed Building

- 8.1 This building, which is Grade II Listed, maintains much historical and agricultural character.
- 8.2 The simple form of the building and also its roof structure would be maintained, as no extensions or roof-lights are proposed. These are key elements of its historical interest in my view.
- 8.3 Some of the garage doors to the south elevation would be lost. However, the appearance and former use of the building as cattle sheds indicate that the south elevation was likely to have originally been open, perhaps with wooden posts sited on top of the ragstone plinth blocks, supporting the roof. These ragstone blocks, which are interesting historical features, would be retained and respected by the position of new doors. New doors would be of simple, vertically boarded design, appropriate to the traditional building and overall the extent of door openings would be less than currently exists.
- 8.4 Both myself and the Conservation Officer are satisfied that the proposed changes to the south elevation would preserve the historical integrity and character of the building.
- 8.5 To the north elevation, two windows and a door are proposed. The door would be of a simple, stable door design and windows would not be of an excessive scale. Although there are currently no openings in this section of the north elevation, despite the different uses of the building, I still consider that the elevation is seen as one building and that this section of wall cannot reasonably be considered in isolation. This elevation of the building is already somewhat domestic in appearance and has a number of existing window and door openings. The proposed windows would be of a design to match some of those existing and the new openings would not be of an excessive scale or number. In my view, the new fenestration would not significantly alter the character of the elevation and this view is shared by the Conservation Officer.
- 8.6 Also, an important material consideration with regards to listed buildings is their viability.
- 8.7 One of the objectives of PPS5 is that “wherever possible, heritage assets are put to an appropriate and viable use that is consistent with their conservation.”
- 8.8 This proposal clearly meets that objective, as it would result in no material harm to the character, appearance or historical integrity of the building and it would secure a suitable long term use, which would ensure its maintenance.

- 8.9 Whilst the building is currently in use for domestic storage purposes, there are currently over 200m² of garaging, workshops and storage for Langley Park House and more than 150m² would remain. The existing amount of space may therefore become surplus to requirements in the future.
- 8.10 In my view, this proposal would preserve the character and appearance of the Grade II Listed Building and it accords with the advice given in PPS5, which indicates that permission should be granted.

9 Residential Amenity

- 9.1 No extensions are proposed which would affect the light to, or outlook of, neighbouring properties.
- 9.2 In terms of privacy, the site would be separated from the properties to the south by the existing, generous courtyard and a hedgerow.
- 9.3 The openings to the south (courtyard) elevation would face the courtyard and any views to units 1 and 2, to the west, would only be oblique.
- 9.4 To the north, fenestration would face a patio which is surrounded on two sides by existing hedging and hedging to the third side could be added to provide separation from Langley Park House and an acceptable living environment for both properties.
- 9.5 There is a small gap in the hedging immediately adjacent to the building, but this only gives limited views over unit 3 and would not, therefore, cause a significant loss of amenity. A suitably designed gate could, subject to the necessary consents, be added at a later date if required by either occupier.
- 9.6 Significant noise and disturbance would not result from traffic movements, due to the fact that only one small unit is proposed.

10 Sustainability

- 10.1 The key issue in this case is sustainability. The site is within a residential planning unit and is an existing building. It is located only a short distance from the urban boundary (less than 500m as the crow flies).
- 10.2 It is accessed via a track leading to the A274 (Sutton Road) which is a main arterial route, well served by public transport. There are bus stops located within several hundred metres of the access upon the Sutton Road, at Parkwood Industrial Estate and Birchalls. The service running past the access track to the site is an hourly service, with the Parkwood service, around 1 mile from the site, running at 10 minute intervals.

- 10.3 The site is close to a number of facilities in the Parkwood area, including employment opportunities at Parkwood Industrial Estate, and Morrisons Supermarket, which is only around 1.5 miles away. There are also schools within 1.5 miles from the site along, or close to, Sutton Road. Three doctor's surgeries are located within approximately 1 mile and a further six within approximately 2 miles. There is a dentist's surgery within approximately 1 mile and six within approximately 3 miles.
- 10.4 Moreover, the site lies within a residential enclave. It is part of a group of more than 10 existing dwellings. It is in an area where residential use as a dwelling has previously been accepted.
- 10.5 It is concluded that the site is well located with regards to access to facilities and, since only one small unit is proposed, this application would not result in a form of development which would be significantly unsustainable.

11 Other Issues

- 11.1 The proposal would not be contrary to the aim of the Southern Anti-Coalescence Belt, because it would not consolidate built development. No additional buildings or extensions are proposed.
- 11.2 There are no significant ecological issues, due to the nature of the proposal. The building is currently in a reasonable state of repair and is in residential use, so is unlikely to be used to any significant degree by protected species.
- 11.3 Sufficient parking space is available within the existing gravelled courtyard area and the access is an existing access.
- 11.4 With the exception of some additional hedging to the north (as discussed above, to provide a satisfactory living environment), no additional landscaping is necessary or appropriate, due to the layout and appearance of the site.
- 11.5 The proposal includes a small patio area, which would give sufficient outdoor space for the small unit, in order to provide a satisfactory living environment.
- 11.6 As the site has been in domestic use for a considerable period of time, the risk of contamination from spillages is considered to be low. However, as part of the site has been used for garaging, it is considered appropriate to attach a condition to deal with contamination issues, in the event that contamination is found.

12 CONCLUSION

- 12.1 The proposal does not fully accord with the Development Plan. However, it complies with PPS5, which seeks to secure viable long term uses for listed buildings, and this is material consideration.
- 12.2 The development would result in no material harm to the visual amenity of the countryside, to the residential amenity of neighbouring properties, or to the character or appearance of the Grade II Listed Building. It would be well accessed in sustainability terms.
- 12.3 Considering all of the above, it is therefore my view that in this particular case, a departure from the Development Plan is justified.
- 12.4 I recommend approval.

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 full details of new external and internal joinery, in the form of large scale drawings, 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.

Reason: To preserve the setting, character and appearance of the Grade II Listed building, in accordance with PPS5.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no development within Schedule 2, Part 1 Classes A-H shall be carried out without the permission of the local planning authority.

Reason: To safeguard the character and appearance of the countryside and the amenity of neighbouring occupiers, in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, PPS1 and PPS7.

4. The development shall not commence until full details of landscaping in the form of hedging to the eastern boundary of the rear amenity space has 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;

Reason: To ensure a satisfactory setting and external appearance to the development, and to provide a satisfactory living environment in accordance with Policies ENV6 and ENV28 of the Maidstone Borough Wide Local Plan 2000 and PPS1.

5. 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 first occupation of the dwelling hereby permitted 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, and to provide a satisfactory living environment in accordance with Policies ENV6 and ENV28 of the Maidstone Borough Wide Local Plan 2000 and PPS1.

6. If during the works contamination is encountered, works shall cease and it shall be fully assessed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the development shall be carried out in accordance with the approved details.

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

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To prevent harm to human health in accordance with PPS23.

7. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers 663/LOC Rev A received on 08/10/10 and 663/P/01 Rev C received on 29/09/10;

Reason: To ensure the quality of the development is maintained and to prevent harm to the character and appearance of the countryside and the Grade II Listed Building in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, PPS1, PPS5 and PPS7.

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.

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

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.

Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down, using suitable water or liquid spray system, the general site area, to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

Where practicable, cover all loose material on the site during the demolition process so as to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

If any asbestos-containing materials are found, adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

The proposed development, subject to the conditions stated, is not considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000), but there is an overriding material consideration to indicate an approval of planning consent being the benefits to the viability of the Grade II Listed Building.

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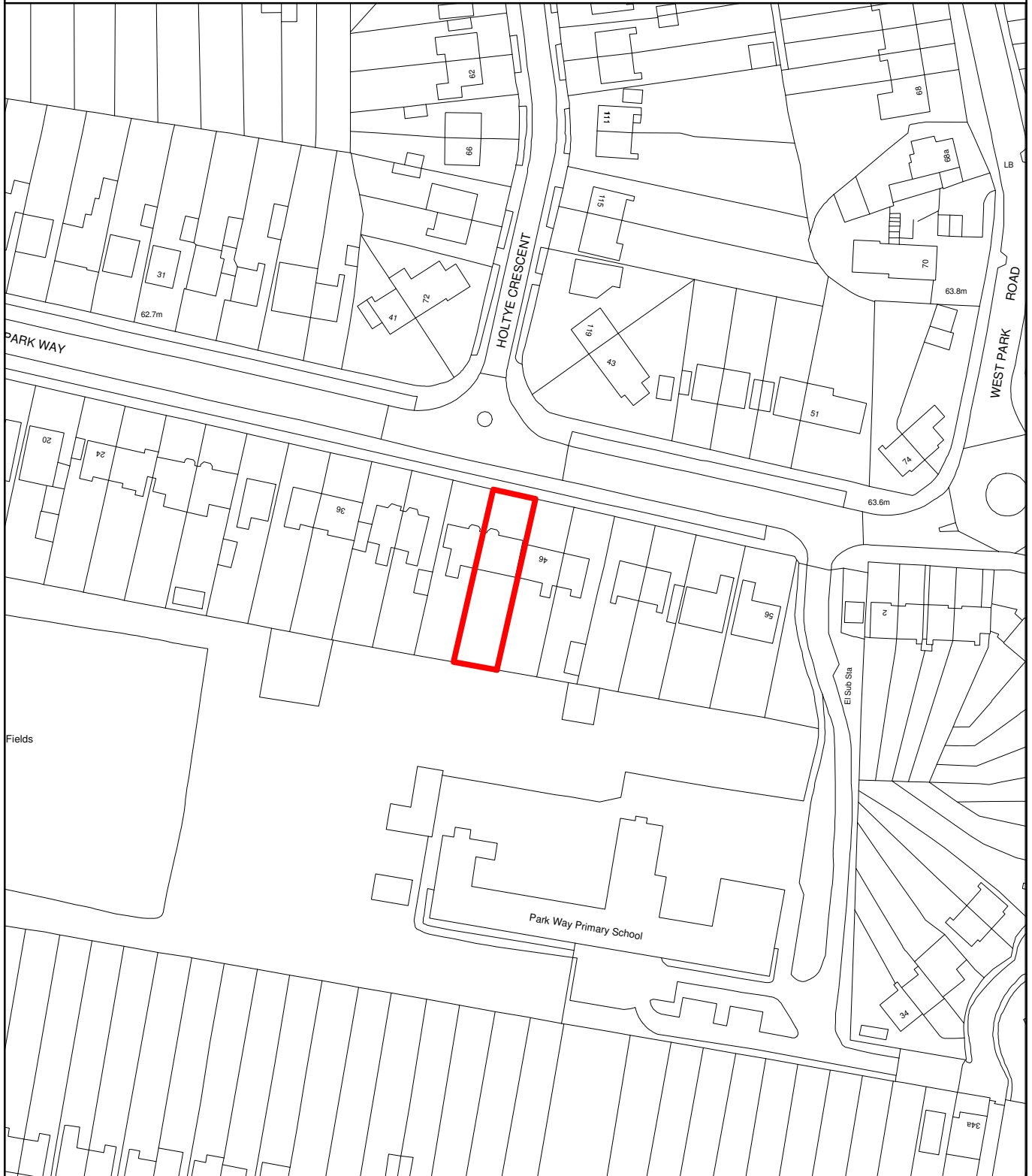
Agenda Item 17

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1295

GRID REF: TQ7654

44 PARK WAY,
MAIDSTONE.



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/1295 Date: 22 July 2010 Received: 23 July 2010
APPLICANT: Mr S Nagar
LOCATION: 44, PARK WAY, MAIDSTONE, KENT, ME15 7DN
PARISH: Maidstone
PROPOSAL: Erection of a rear conservatory and first floor lean-to extension over existing garage
AGENDA DATE: 4th November 2010
CASE OFFICER: Louise Welsford

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

- the applicant's wife is an officer of the Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: H18.
Government Policy: PPS1.
Supplementary Planning Guidance document "Residential Extensions".

1 HISTORY

1.1 None relevant.

2 CONSULTATIONS

2.1 **Parish Council:** Not applicable.

3 REPRESENTATIONS

3.1 None received to date.

4 CONSIDERATIONS

SITE AND SITUATION

4.1 This application relates to a semi-detached dwelling, which is located upon the south side of Park Way, in the urban area of Maidstone. The house is constructed of facing brickwork and render, under a plain tiled roof.

- 4.2 The road is a fairly wide street of generally 1930s character. Dwellings are a mixture of mainly detached and semi-detached properties, mostly being of two storeys in height, although there are some bungalows. Spacing between dwellings is not wholly fixed and there are no strong uniform patterns to the street in general.

5 **PROPOSAL**

- 5.1 Planning permission is sought for the erection of a first floor side extension and a rear conservatory.
- 5.2 The first floor side extension would take the form of a catslide extension to the main roof, over the existing garage. The only fenestration proposed to that extension would be the insertion of two rooflights to the catslide roof. The render and tiles used would match those existing upon the house.
- 5.3 The conservatory would have a footprint of 4.2m x 3.35m. It would be approximately 2.2m high to eaves and 3m to ridge. It would have a partially solid wall (approximately 3m of its length) facing the attached property, with the remainder of the elevations being glazed upon dwarf walls (approximately 0.6m high). The roof would be glazed.

6 **PLANNING CONSIDERATIONS**

Visual Impact/Impact upon the Character and Appearance of the Street-scene

- 6.1 The proposed rear conservatory would be of a subordinate scale to the existing house and sympathetically related to it. It would not affect the visual amenity of the street-scene, because it would be positioned to the rear of the existing house, and, therefore, not visible from the road.
- 6.2 The proposed side catslide extension would maintain the form of the existing house, as the shape of the main roof would be maintained – the side roof slope would simply be lengthened over the existing garage.
- 6.3 Due to its design and height, the extension would appear subordinate to the existing house and sympathetically related to it.
- 6.4 The adopted supplementary planning guidance upon residential extensions advises that, for two storey side extensions, a minimum gap of 3m at first floor level should be maintained between the flank walls of the buildings. The purpose of this is to prevent a terracing effect in streets where terracing is out of character and also to preserve the rhythm or pattern of development, in streets where this is a positive and important feature.
- 6.5 In this case, a minimum gap of 3.5m would remain, increasing to more than 4m to the higher part of the extension. The development therefore accords with the adopted guidance and sufficient gap would remain to prevent a terracing effect. Moreover, the street-scene is not of fixed character or spacing, so the proposal would not interrupt the rhythm or pattern of the

street. I consider that the development could be absorbed within this locality without any significant detriment to visual amenity.

7 **Impact upon Residential Amenity**

- 7.1 The proposed side extension would not cause a significant loss of residential amenity for any neighbouring property, due to its design and positioning. It would be located alongside a garage and part of the kitchen of no. 46, to the east, which has kitchen windows located upon its rear elevation. To the first floor of the flank elevation of no. 46 is a small window, understood to serve a staircase. Therefore, the side extension would not face any key openings of no. 46 and due to its design and positioning, would not cause a significant loss of light to, overshadowing of, or loss of outlook or privacy for, the occupiers of no. 46. The rearmost rooflight would serve only a cupboard and any views for the rooflights towards the rear garden of no. 46 would only be oblique.
- 7.2 Although at 4.2m in depth the extension would be longer than that suggested in the residential extensions guidelines (3m is suggested), only 3m of that length would be a solid wall. Also the heights would be lower than the maximums suggested in the supplementary guidance. The guidance suggests maximums of 3m to eaves and 4m to ridge, whereas this proposal would be approximately 2.2m to eaves and 3m to ridge – significantly lower than the suggested maximums. The solid section would only be approximately 2.2m in height, which is only marginally higher than a 2m high solid brick wall which could be constructed along the boundary as permitted development.
- 7.3 A loss of light test undertaken in accordance with a method referred to in the British Research Establishment Report “Site Layout Planning for Daylight and Sunlight” does not indicate a significant loss of light to the attached property, no. 42, to the west. The development passes both the plan and elevation tests in respect of the conservatory and passes the elevation test in respect of the habitable room behind the conservatory. If the development passes either test, then a significant loss of light is unlikely to result. Also, the glazed sections of the proposal would obviously allow light transference and would therefore be of limited impact upon the neighbouring property.
- 7.4 Therefore, because of the design and height of the conservatory, it is considered that it would not cause a significant loss of light to, overshadowing of, or overbearing impact upon, the attached property, notwithstanding its length. Also, no 42 has a conservatory to the rear elevation and this has obscure glazed high level windows facing the site (rather than its key openings). No other property would be close enough to the conservatory to be affected in these ways.
- 7.5 The proposed conservatory would not cause a significant loss of privacy for any neighbouring property, because it would be sited upon an existing patio and would give substantially the same views which could be gained from the existing garden area. There is a close boarded fence to the western boundary.

8 **Other issues**

- 8.1 No additional bedrooms are proposed and the proposal would not affect the parking provision.

9 **Conclusion**

- 9.1 The proposal would preserve the character and appearance of the streetscene and would not result in significant harm to residential amenity for any neighbouring property. Approval is therefore recommended.

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 bricks, render and tiles to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building:

Reason: To ensure a satisfactory appearance to the development in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000, and PPS1.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan and drawing no. M1991.10/02 received on 23/07/10;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000, and PPS1.

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 there are no overriding material considerations to indicate a refusal of planning consent.

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A photograph of a row of brick houses. In the foreground, there is a large tree on the left and a street. A black signpost with the number '123' is visible. The houses are two stories high with multiple chimneys and windows. A date stamp '15.10.2010' is in the bottom right corner.

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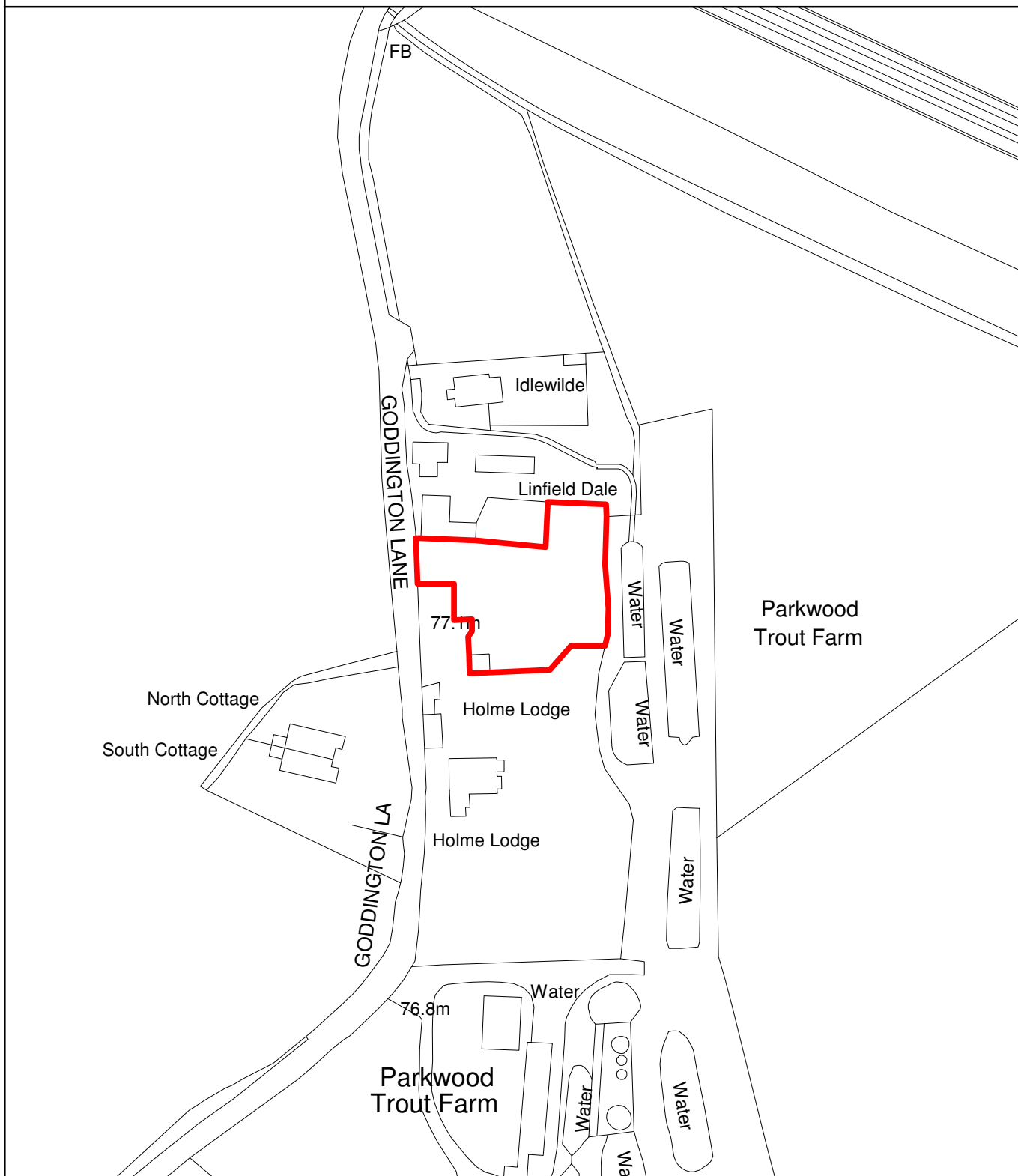
Agenda Item 18

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1445

GRID REF: TQ8653

THE TANNERY,
GODDINGTON LANE, HARRIETSHAM.



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/1445 Date: 18 August 2010 Received: 20 August 2010
APPLICANT: Mr S Griggs
LOCATION: THE TANNERY, GODDINGTON LANE, HARRIETSHAM, MAIDSTONE,
KENT, ME17 1JX
PARISH: Harrietsham
PROPOSAL: Erection of part single storey part two storey extension as shown on
plan numbers 001, 002, design and access statement and
application form received 20th August 2010.
AGENDA DATE: 4th November 2010
CASE OFFICER: Kevin Hope

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: H33, ENV28, ENV34

Village Design Statement: N/A

Government Policy: PPS1, PPS3, PPS5, PPS7

Other: MBC Residential Extensions Supplementary Planning Document 2009

2 HISTORY

MA/01/1233 - Demolition of two storey extension to Home Lodge and erection of replacement two storey extension and detached double garage, conversion of Tannery to 1No. dwelling including single storey extension and erection of detached double garage, conversion of barn to 1No. dwelling including part demolition and extension and associated access works and landscaping – Approved with conditions

MA/02/1217 - Conversion of barn and tannery into two residential dwellings, erection of double garage and associated access and landscaping works – Approved with conditions

MA/03/0252 - Change of use of Tannery to form a two bedroom dwelling and resiting of double garage (Variation of planning approval MA/02/1217G) – Approved with conditions

3 CONSULTATIONS

Harrietsham Parish Council – Wish to see the application approved

Conservation Officer – Wishes to see the application refused on the following grounds:-

"We are concerned on conservation grounds that the proposed extension would cause harm to the special character of the building by breaking with the form of the building, thus obscuring its original function. We recognise that a permitted extension has already altered the simple square footprint of this unusual building. On balance, the siting, scale and simplicity of form of that earlier extension have not significantly harmed the character of the building as the building's historic form and character can be "read" when viewed from both side elevations as illustrated on Drawing No. 001.

In our view, by its siting and design, the proposed extension would be contrary to guidance found in the Council's Residential Extensions Supplementary Planning Document:

5.14 Extensions to dwellings in the countryside which have been converted From buildings originally in non-residential use, such as oast houses, barns and other farm buildings, will not normally be permitted where this would have an unacceptable impact on the original form and character of the building. Many rural buildings have a simple form such as a rectilinear floor plan which fits well with their original function and the character of the countryside. In granting consent for conversions the Council seeks to preserve the original form and character of the building. Proposals for extensions to such buildings should not therefore destroy that form or character.

In our view, an extension in this location would have an unacceptable impact on the rural, vernacular building's special form as visible from both side elevations.

A number of the design elements would also introduce a more domestic appearance to what is believed to have been a tannery. The dormer and porch in particular would compromise the simple character of this former working building".

4 REPRESENTATIONS

No representations received

5 CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located within the parish of Harrietsham and lies to the west of the village boundary in the open countryside. The application site

comprises a converted Tannery which was granted permission for residential use in 2001 under MA/01/1233. This permission also included the conversion of the barn for residential use located 7m to the south west of the Tannery. Following this two further applications were submitted with amendments to the approved scheme which were subsequently permitted under MA/02/1217 and MA/03/0252.

5.1.2 The site area is designated as a Special Landscape Area and a Site of Nature Conservation Interest and comprises a large area of garden space with the converted Tannery located in the south west corner of the site. To the west of the site is a stream flowing south as well as a number of large trees. The Tannery is a three storey building which is set down from the access drive to the west by approximately 2m. There is also a two storey sloping roofed side extension to the eastern elevation which was permitted under MA/01/1233. The property has a black weatherboarded appearance with slate roof, lead hips and some ragstone detailing on the west and south facing elevations. The ground floor of the front elevation is currently rendered with buff colouring. The property is accessed via the garden area only which is separated from the communal driveway to the west by a 1.8m high close boarded fence.

5.1.3 The Tannery and the barn were originally working buildings within the curtilage of the neighbouring Holme Lodge and were considered to be of significant historical merit thus residential conversion was permitted. Although at this time an extension to The Tannery was permitted, I consider that a clear distinction can be drawn between the original building and the later side extension. Although some of the original elements of the building have been changed during its conversion, a number of its original external features remain. Most importantly, this includes the original three storey proportion and form of the building. Of course the building has been updated to accommodate a residential conversion with new external materials which accurately match the existing with black weatherboarding and slate roof tiles. The ragstone base has also been retained on the two most prominent elevations together with the original doorway and window position on the west elevation. Where new windows have been inserted, the original style and character of the building is still visible and has not been compromised.

5.2 Proposal

5.2.1 Planning permission is sought for the erection of a part single storey part two storey extension. This would be positioned on the front north facing elevation of the property and would comprise additional living accommodation at ground floor and an additional bedroom at first floor.

5.2.2 The extension would have a part pitched roof and part sloping roof, would measure approximately 7.6m in width and would project approximately 3m from

the existing front elevation. The ridge height of the extension would be approximately 5.2m in line with the second floor window and would have an eaves height of approximately 3.8m.

5.2.3 The extension would be of red brick construction with a black weatherboarded first floor fenestration. It would also have a slate roof with lead hips to match the existing.

5.3 Principle of Development

5.3.1 In principle, developments which form an extension to a converted building are not usually considered acceptable as they can harm and significantly change the character and appearance of a building.

5.3.2 This is expressed within paragraph 5.14 of the Residential Extensions Supplementary Planning Document 2009 which states that:-

- *"Extensions to dwellings in the countryside which have been converted from buildings originally in non-residential use, such as oast houses, barns and other farm buildings, will not normally be permitted where this would have an unacceptable impact on the original form and character of the building".*
- *"In granting consent for conversions the council seeks to preserve the original form and character of the building. Proposals for extensions to such buildings should not therefore destroy that form or character and will not normally be considered acceptable".*

5.3.3 Policy H33 of the Maidstone Borough Wide Local Plan is also applicable in this case which states that:-

"Extensions to dwellings in the countryside will not normally be permitted if they:-

- (1) Create a separate dwelling or one of a scale and type of accommodation that is capable of being used as a separate dwelling; or*
- (1) Overwhelm or destroy the original form of the existing house; or*
- (2) Are poorly designed or unsympathetically related to the existing house; or*
- (3) Result in a development which individually or cumulatively is visually incongruous in the countryside; or*

(4)Result in an unacceptable loss of amenity or privacy for adjoining residential property”.

5.3.4 Policy ENV34 of the Maidstone Borough Wide Local Plan 2000 also applies as the site is located within a Special Landscape Area. This policy seeks to protect the distinctive quality and character of an area.

5.3.5 I will consider these points under sections 5.4 and 5.5 below.

5.4 Visual Impact and Design

5.4.1 With regard to the impact upon the existing dwelling, The Tannery has previously been extended as part of the original planning approval for conversion (MA/01/1233). Although this extension forms a significant addition to the building, permission was granted because it is sympathetically designed and positioned so that a clear distinction can be drawn between the original Tannery building and the later subservient addition. Furthermore, the original extension provides the additional living space required to enable the residential conversion of the building and to facilitate the retention of this unusual historic building. In addition, by virtue of its siting, the original extension is not visible from the road and access to the west thus maintaining the visual appearance of the Tannery and this principal elevation.

5.4.2 I consider that this proposal would form an unsympathetic addition which would upset the balance of the building by virtue of its overwhelming height and width, siting on the original north elevation and design. The proposal would result in an extension which would cause significant harm to the appearance and modest form of a former Tannery. In addition, the extension would result in approximately a 40% increase in the volume of the dwelling excluding the pitched roof which would excessively enlarge the building from its original modest form.

5.4.3 This proposal includes a number of design features which would appear incongruous within this former working building. This is also the view of the Conservation Officer who states that "A number of the design elements would also introduce a more domestic appearance to what is believed to have been a tannery. The dormer and porch in particular would compromise the simple character of this former working building". This would add further harm to its character and appearance and is therefore contrary to criterion 2 and 3 of policy H33 and the guidance stated within paragraph 5.14 of the MBC Residential Extensions SPD.

5.4.4 As a result of this proposed development, the depth of the original part of the building would measure approximately 7.4m which would be considerably larger

and would destroy the original square design of the building which should remain a principle element of this building. This would therefore overwhelm the existing form of the building and would cause harm to its character and appearance. Furthermore, by virtue of this siting, the roof would be visible above the existing fence from the west facing principle elevation from the access fronting the road. I consider this would significantly harm the visual appearance and would destroy the unusual historic form of The Tannery. The Conservation Officer also holds this view and states that "In our view, an extension in this location would have an unacceptable impact on the rural, vernacular building's special form as visible from both side elevations.

5.4.5 I consider that this proposal is not of a scale or design which would be capable of being used as a separate dwelling and therefore I consider that this proposal is not contrary to criterion 1 of policy H33 of the Maidstone Borough Wide Local Plan 2000.

5.4.6 Overall, this proposal would significantly harm the character and visual appearance of the existing building and significantly harm its character of a historic former working tannery and is therefore contrary to the guidance stated within paragraph 5.14 of the Residential Extensions SPD 2009 and criterion 2 and 3 of policy H33 of the Maidstone Borough Wide Local Plan.

5.5 Surrounding Area

5.5.1 In terms of the impact upon the countryside, although the application site is not significantly visible from the open countryside by virtue of the existing trees to the east and the level of the land, the proposed extension would be partially visible from the public domain via Goddington Lane to the west. Therefore, by virtue of its design and scale, I consider that an extension of this scale would represent an excessive extension in the countryside which would appear incongruous and would cause significant harm to the appearance and character of the Special Landscape Area contrary to criterion 4 of policy H33 of the Maidstone Borough Wide Local Plan 2000.

5.6 Neighbouring Amenity

5.6.1 With regard to the possible impact upon neighbouring amenity, the nearest neighbouring property to the application site is The Barn which is located approximately 7m to the south west of The Tannery. There is would not be any significant impact upon the amenity of this property by virtue of the location of the proposed extension of the northern elevation. The nearest neighbouring property adjacent to this elevation is Linfield Dale located approximately 25m to the north of The Tannery. It is also considered that there would not be a significant impact upon the amenity of this property by virtue of this distance and the existing boundary fencing. Overall, I consider that by virtue of its siting

the proposal would not have a significant impact upon the neighbouring amenity of any surrounding property including loss of light, privacy and overshadowing. Therefore, this proposal is not contrary to criterion 5 of the policy H33 of the Maidstone Borough Wide Local Plan 2000.

6 CONCLUSION

- 6.1** In conclusion, for the reasons stated above, it is considered that the proposal would destroy the historic character and appearance of the Tannery which would significantly harm the appearance and character of the countryside. The proposal is therefore unacceptable with regard to the relevant provisions of the development plan and other material considerations such as are relevant. I therefore recommend refusal of the application on this basis.

7 RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

1. The proposal, by virtue of its unsympathetic design, would result in a significantly incongruous addition which would destroy the simple form of this converted working building and thereby cause unacceptable harm to the character and appearance of the countryside and Special Landscape Area. This proposal is therefore contrary to policies ENV28, ENV34 and H33 of the Maidstone Borough-Wide Local Plan 2000 and the advice contained in Maidstone Borough Council's Residential Extensions Supplementary Planning Document 2009.

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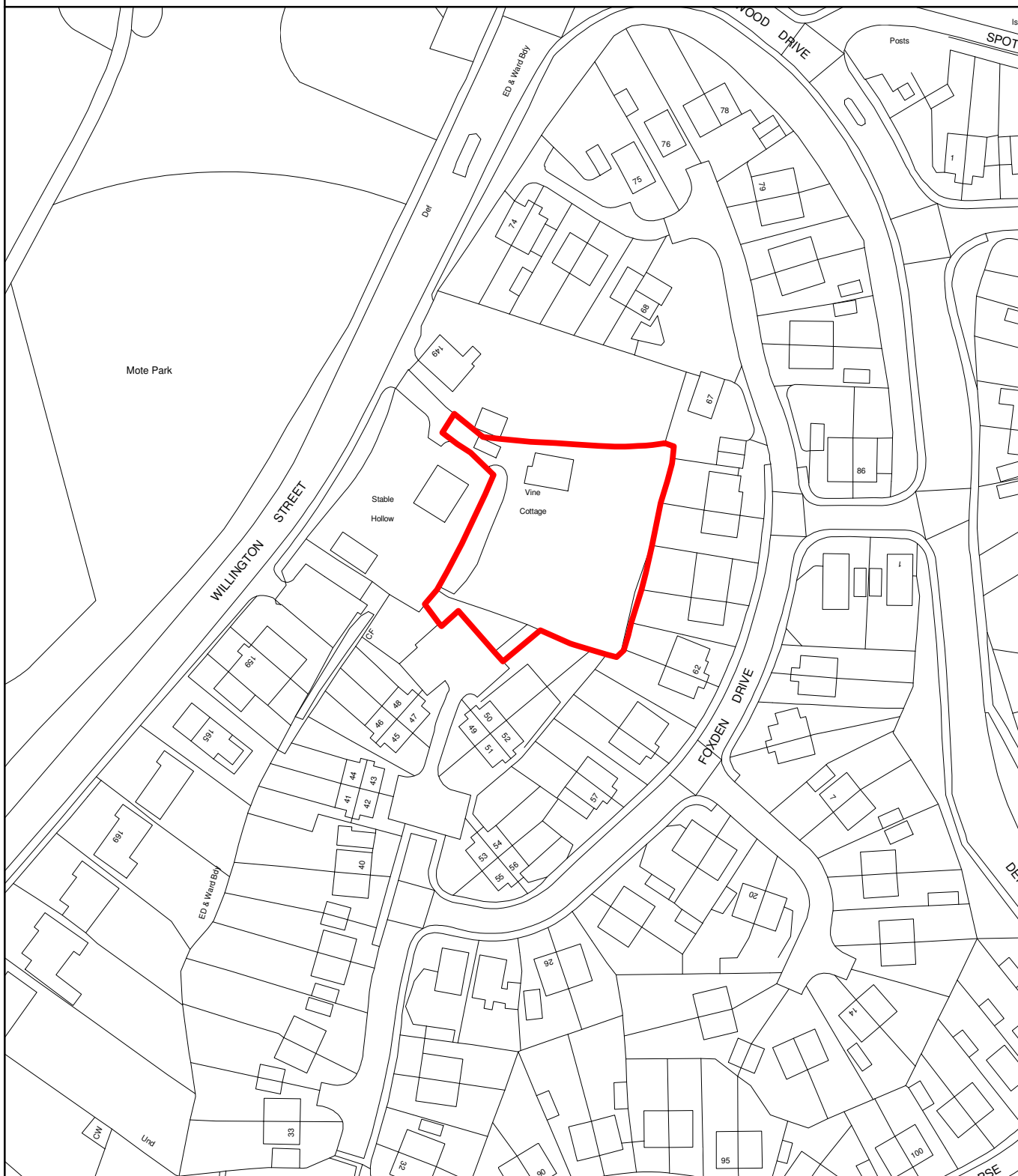
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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1601

GRID REF: TQ7854

VINE COTTAGE,
WILLINGTON STREET, MAIDSTONE.



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/1601 Date: 12 September 2010 Received: 14 September 2010

APPLICANT: Mr N Dupre

LOCATION: VINE COTTAGE, WILLINGTON STREET, MAIDSTONE, KENT, ME15 8ED

PARISH: Maidstone

PROPOSAL: Erection and use of Amateur radio mast and aerial as shown on unnumbered scale 1:200 elevation plans, 1:500 block plan and applicants supporting statement received on 14 September 2010.

AGENDA DATE: 4th November 2010

CASE OFFICER: Laura Gregory

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

- it is contrary to views expressed by Downswood Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6
Government Policy: PPS1, PPG8, PPG24

1. HISTORY

1.1 None

2. CONSULTATIONS

2.1 **Downswood Parish Council** - "Wish to object to the above Planning Application and would like it reported to the Planning Committee for the following reasons:-

- Unknown implications from the increase of power/frequency, including the affect it may have on certain equipment in the area.
- Concerns for the pipistrelle bat population if there is an increase in power.
- Aesthetically, the mast may be screened by trees during the summer period but it will be visible during the winter months.
- The applicant states that his existing aerials have 'limited my experiments and activities'. If planning permission is granted, what will future experiments/activities involve?"

MBC Environmental Health Officer – No objections

3. REPRESENTATIONS

- 3.1 Six letters of representation received raising the following objections:-
- Proposed mast would interfere with T.V signals, Wi-Fi and other electrical equipment
 - The mast would result in a noise issue
 - Overshadowing of neighbouring property.
 - Possible risk to health
 - May affect local Bat population
 - Sets a precedent

4. CONSIDERATIONS

4.1 Site and Surroundings

- 4.2 The application site is located within the defined urban area of Maidstone and contains a detached dwelling otherwise referred to as Vine Cottage. Located to the east of Willington Street, just 100m south of the junction of Willington Street with Derringwood Drive, the dwelling is not listed and is not subject to any specific landscape or other designations as designated within the Development Plan.
- 4.3 The dwelling is an older property compared to its neighbours. It is constructed in what appears to have been an old quarry, approximately 2.5m below the gardens of the dwellings in Willington Street to the north and north west, and 2m below the gardens of the dwellings in Foxden Drive to the south and east, Vine Cottage is not visible from Willington Street. The garden is bounded by both deciduous and evergreen trees on the east south and west boundaries. The trees are approximately 8-10m high to the eastern boundary and around 18m high to both the south and western boundaries. The applicant's garden gradually rises towards to the southern boundary where there is a detached single storey garage and the main vehicular access into the site. The drive into the site continues to rise until it is level with Foxden Drive.
- 4.4 The surrounding area is predominantly residential with houses constructed around the trees. The significant difference in the land levels and the height of the surrounding trees means that a large number of the dwellings in Foxden Drive have television aerials which extend above the ridge of their roof. As such, the skyline is dominated by deciduous and evergreen trees and, domestic aerials.

4.5 Proposal

- 4.6 Planning permission is sought to erect a free standing 17m high radio mast and aerial to the south east corner of the site next to the garage. The applicant is a licensed amateur radio operator and already has aerials in the garden attached to a tree to the southern boundary. The proposed mast is required to enable him to continue with his hobby.
- 4.7 Constructed of fibreglass, the proposed mast would measure 17m above ground level which, is approximately 2-2.5m below the surrounding dwellings. It would taper from a diameter of 60mm at the base to 30mm at the top. The attached aerial comprises of six arms radiating from a central hub. The proposed arms are fibre glass tubes measuring 25mm in diameter at the centre tapering to 17mm at the end and would have a maximum radius of 3.3m. The hexagonal structure would then support lightweight aerial wires measuring 1.3mm in diameter.
- 4.8 The aerial is a directional and would rotate with the mast to which it is attached. The rotator mechanism would be located below the roof line of the garage and would be supported by a steel tubular column embedded in a concrete foundation. The motor would be powered by electricity from the main house

4.9 Planning Considerations

- 4.10 The main issues to consider are firstly, the visual impact the proposed mast and aerials would have on the character and appearance of the surrounding area and, secondly, the residential amenity of the neighbouring occupiers.

Visual Impact

- 4.11 When considering the visual impact of the proposed mast, PPG8 recognises that masts used by amateur radio operators can present a few potential planning problems in terms of their size and visual impact as they need to be high enough for technical efficiency and located away from other antennas to minimise interference.
- 4.12 At 17m high, the proposed mast would be a visible structure projecting above the canopy of the trees on the eastern boundary. However, given that it would be sited on land which is below the ground level of surrounding houses, and would be surrounded by trees, I do not consider that the proposed mast would significantly visually intrusive.
- 4.13 The design of the mast, with its proposed branch-like aerial is acceptable given the character of the site and the proposed position of the structure. The mast would be a narrow structure, painted dark green and surrounded by trees which is in accordance with the advice published under PPG8. Whilst the trees which

surround the mast are deciduous and therefore in winter, the mast would be more visible between the gaps in the dwellings on Foxden Drive, the design, colour and position of the mast are such that it would not appear visually dominant or significantly intrusive blending in with the surrounding trees. As these retained trees would provide a natural screen and this is in accordance with PPG8 and Policy ENV6, a condition is necessary to which ensure that these trees are retained.

- 4.14 The proposed mast would integrate well with the character and appearance of the surrounding area, appearing less intrusive than the television (T.V) aerials which are in place on the properties in Foxden Drive to south and west of the site. These aerials are unduly prominent within the street, due to their position above the rooftops and unlike the proposed mast, have not been designed to blend in with the surrounding area.
- 4.15 No visual harm to Willington Street would be caused by the development, given that the mast will not be visible from this highway and as such the character and appearance of Willington Street would be preserved as a result of this development.

Residential Amenity

- 4.16 Six letters of objection have been received stating that the proposed mast would result in an increase in the power used to broadcast and as such, would interfere with T.V frequencies, causing harm to residential amenity.
- 4.17 PPS1 actively encourages development which enhances and protects the places where people live. With regard to the increase in power and the impact it would have on the surrounding neighbouring properties, the applicant has stated that the proposed mast and aerial would not transmit on a higher level of power than his existing mast. This is due to the restrictions imposed on his licence.
- 4.18 Having contacted a technician from the Radio Society of Great Britain (RSGB), and a member of the licensing team at Ofcom, it has been confirmed that a Full UK amateur radio licence does limit operators to using a maximum of 400 watts of electricity to transmit. As the applicant is a full licence holder, he is restricted to using a maximum of 400 watts of power to the proposed mast. Considering that the applicant already has an aerial on site and therefore is already making transmissions, it is my view that it is unlikely the proposed new mast would result in a significant increase in electrical power which would be harmful to the amenity of the surrounding residents.
- 4.19 The proposed mast would not be rotating continuously. It would only rotate in the direction that radio transmission is to be made. However, whilst the rotating aerial would not be noisy, the motor powering it may be, especially given that it

would be located outside the garage. The Environmental Health Officer is satisfied that the relatively low power of the motor (approximately 100 watts) would not result in a significant noise issue. However, to safeguard the amenity of the surrounding residents, as a precautionary measure the Environmental Health Officer recommends that a condition is imposed which requires a sound proof box around the motor housing.

- 4.20 With regard to the interference with T.V radio signals, the applicant is not permitted to transmit on the same frequencies as broadcasting T.V and radio stations. The amateur radio transmitting licence clearly identifies the frequencies that amateurs are allowed to use. Knowledge of those frequencies is assessed in the formal exam that must be passed before a licence is awarded. If a transmission was made outside of the permitted frequencies, this would be a breach of the licence and the regulations of the Wireless Telegraphy Act 1949 and therefore a matter for Ofcom to enforce as the regulator.
- 4.21 Given that the site is surrounded by trees which already interfere with analogue T.V reception, and bearing in mind the conditions of the applicant's licence, I do not consider that the proposed mast would cause any significant or unacceptable interference. Therefore on this matter, I consider that the proposal is acceptable.

Health

- 4.22 With regard to the possible health risks, having contacted the Health Protection Agency, it has been confirmed the radio wave (also called radio frequency) levels emitted by the masts of amateur radio enthusiasts are relatively low and should therefore not be any cause for concern in relation to health.
- 4.23 Radio amateurs are required have a licence (foundation, Intermediate or Full) to get on the air to transmit such radio signals in addition to an understanding of the antennas and radio systems, and Ofcom imposes terms and conditions (with limitations) in order to qualify for such a licence. Any breach of these terms and conditions is a matter for Ofcom as the regulator, to deal with.

Ecology

- 4.24 With regard to the impact upon the pipistrelle bat population, bats use sound waves and not radio waves to navigate and therefore it is unlikely that the mast would cause significant harm to the bat population. The proposed mast is the same height as the surrounding trees and is of similar design to telegraph poles which are present in the area. No harm to bat roosts would be caused as a result of this proposal.

5 CONCLUSION

In conclusion, considering the above I consider that by virtue of its design and position, the proposed mast would not result in significant visual harm to the character and appearance of the surrounding area. In terms of the impact upon residential amenity, given the low power the mast would use and the limitations of the applicant's licence, I do not consider significant harm to residential amenity in terms of noise and interference, would be caused. The application is therefore considered to be in accordance with the advice contained within PPG8 and PPS1 and I recommend that the application be approved subject to the following conditions.

6 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 details of a scheme for the insulation of the rotator motor mechanism have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be installed in accordance with the subsequently approved details and maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: To safeguard the enjoyment of their properties by neighbouring residential occupiers and in accordance with advice contained within PPG24

3. The radio mast hereby permitted shall be painted dark green prior to its erection, and shall thereafter be maintained as such to the satisfaction of the Local Planning Authority .

Reason: In the interest of visual amenity and in accordance with advice contained within PPS1 and PPG8

4. When no longer in use, the radio mast and aerial hereby permitted shall be removed to the satisfaction of the Local Planning Authority.

Reason: In the interest of visual amenity and in accordance with advice contained within PPS1

5. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. If any retained tree is removed, uprooted or destroyed or dies, a replacement tree shall be planted and that tree shall be of such size and species, and shall be planted at such time and in a position to be agreed with the Local Planning Authority, as may be specified in writing by the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development in accordance with Policy ENV6 of the Maidstone Borough-Wide Local Plan 2000 and advice contained within PPS1 and PPG8.



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