

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 25 November 2010
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Ash, Barned, Chittenden, English,
Harwood, Hinder, Lusty (Chairman),
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 Items withdrawn from the Agenda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 - 2 December 2010

Continued Over/:

Issued on 17 November 2010

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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.
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22. 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 4 NOVEMBER 2010

Present: Councillor Lusty (Chairman) and
Councillors Burton, Butler, Chittenden, English,
Harwood, Paine, Paterson, Robertson, Mrs Robertson
and Thick

Also Present: Councillor Sams

189. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Ash, Barned, Hinder, Nelson-Gracie, Mrs Wilson and J A Wilson.

190. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:-

Councillor Burton for Councillor Hinder
Councillor Butler for Councillor Barned
Councillor Robertson for Councillor Mrs Wilson
Councillor Thick for Councillor Ash

191. NOTIFICATION OF VISITING MEMBERS

Councillor Sams indicated his wish to speak on the report of the Head of Development Management relating to application MA/10/0645.

192. ITEMS WITHDRAWN FROM THE AGENDA

MA/10/1445 – Erection of part single storey part two storey extension –
The Tannery, Goddington Lane, Harrietsham, Maidstone

It was noted that this application had been withdrawn by the applicant.

193. 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.

194. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Burton disclosed a personal interest in the report of the Head of Development Management relating to application MA/10/0966, as a Member of Langley Parish Council. He stated that he had not participated in the Parish Council's discussions on the application and intended to speak and vote when it was considered. He also stated that although he lived in a neighbouring property, he had no personal or prejudicial interest in the application.

With regard to application MA/10/0966, all Members stated that they knew the applicant.

195. EXEMPT ITEMS

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

196. MINUTES

RESOLVED: That the Minutes of the meeting held on 14 October 2010 be approved as a correct record and signed.

197. MATTERS ARISING FROM THE MINUTES OF THE MEETING HELD ON 14 OCTOBER 2010

MINUTE 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

The Head of Development Management advised the Committee that at the last meeting, it had been agreed that the above application be refused on the grounds that 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. Members had also asked that consideration be given to whether another reason for refusal on the grounds of air quality could be added to the decision because of the site's close proximity to the A249.

Further consultation had been undertaken with the Environmental Health Manager and, on the basis that there was no evidence to show that air pollution levels from traffic on the nearby A249 were adversely affecting the site and also that air pollution was not an issue at the recent appeal, it was recommended that it should not be used as an additional reason for refusal.

RESOLVED: That no further action be taken on the suggested addition of another reason for refusal on the grounds of air quality to the decision in respect of application MA/10/0943.

198. PRESENTATION OF PETITIONS

There were no petitions.

199. 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 further details of landscaping and ecological mitigation measures had now been submitted. He hoped to be in a position to report the application back to the Committee in the near future.

- (2) 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 Head of Development Management advised Members that negotiations were continuing in respect of this application.

200. MA/10/1601 - ERECTION AND USE OF AMATEUR RADIO MAST AND AERIAL - VINE COTTAGE, WILLINGTON STREET, MAIDSTONE

All Members except Councillors Butler and Paterson stated that they had been lobbied.

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

Miss Caleno, on behalf of Mr Kelsey (an objector), and Councillor Greenhead of Downswood Parish Council (against) addressed the meeting.

RESOLVED: That permission be granted subject to the conditions set out in the report, as amended by the urgent update report, and the following additional condition:-

The development shall not commence until details are submitted to the Local Planning Authority for approval showing the existing trees to be retained within the site that would offer screening to the development hereby permitted. Thereafter, upon approval of the details, no trees shown to be retained 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 prior written approval of the

Local Planning Authority. If any retained tree is removed, uprooted, is destroyed or dies, within 5 years, then 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 ensure a satisfactory setting and external appearance to the development in the interests of visual amenity, in accordance with policy ENV6 of the Maidstone Borough-Wide Local Plan 2000 and advice contained within PPS1 and PPG8.

Voting: 7 – For 3 – Against 1 – Abstention

201. 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 stated that they had been lobbied.

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

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

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

Voting: 8 – For 1 – Against 2 – Abstentions

202. MA/10/0903 - CONTINUED USE FOR THE STATIONING OF A MOBILE HOME, TOURING CARAVAN, DAY ROOM AND STABLES FOR A GYPSY FAMILY - MAPLEHURST PADDOCK, FRITTENDEN ROAD, STAPLEHURST, TONBRIDGE

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 Roestenburg, an objector, and Councillor Fairfax of Staplehurst Parish Council (against) addressed the meeting.

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

Voting: 10 – For 0 – Against 1 – Abstention

203. MA/10/0645 - CHANGE OF USE OF PART OF TRAINING CENTRE FOR USE AS TRACK TRAINING AREA AND MINOR ALTERATIONS TO SITE LAYOUT - THE STATION HOUSE, STATION APPROACH, LENHAM, MAIDSTONE

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

Mr Long, an objector, Ms Peters, for the applicant, and Councillor Sams addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report as amended by the urgent update report.
2. That Councillor Harwood and the Parish Council should be consulted on the details to be submitted pursuant to condition 2 (land restoration scheme).

Voting: 11 – For 0 – Against 0 – Abstentions

204. MA/10/0966 - CHANGE OF USE OF OUTBUILDING TO SINGLE DWELLING HOUSE AND ASSOCIATED ALTERATIONS - LANGLEY PARK FARM, SUTTON ROAD, LANGLEY, MAIDSTONE

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

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

Voting: 11 – For 0 – Against 0 – Abstentions

205. MA/10/1295 - ERECTION OF A REAR CONSERVATORY AND FIRST FLOOR LEAN-TO EXTENSION OVER EXISTING GARAGE - 44 PARK WAY, MAIDSTONE

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

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

Voting: 11 – For 0 – Against 0 – Abstentions

206. MA/10/1445 - ERECTION OF PART SINGLE STOREY PART TWO STOREY EXTENSION - THE TANNERY, GODDINGTON LANE, HARRIETSHAM, MAIDSTONE

Application withdrawn by the applicant.

207. CHAIRMAN'S ANNOUNCEMENTS

There were none.

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

PARKING IN HIGH STREET, STAPLEHURST

The Democratic Services Officer advised the Committee that the Cabinet Member for Environment had confirmed that the Officers would monitor the parking situation in High Street, Staplehurst following implementation of application MA/10/0960 – Application for change of use from A1 (Hair and Beauty Salon) to D1 (Day Nursery) – Wealden Saddlery, High Street, Staplehurst.

GYPSY AND TRAVELLER SITES

The Head of Development Management submitted details of the Cabinet Member for Regeneration's initial response to the Committee's reference relating to gypsy and traveller sites.

It was noted that:-

- The Core Strategy would include the target for how many additional pitches the Council expected to need to provide in the period 2006-2016 based on evidence. In September the Local Development Document Advisory Group, Overview and Scrutiny and Cabinet had considered the factors to be taken into account in setting the pitch target and Cabinet had agreed the methodology to be followed. This methodology did not take account of wider needs arising from outside the Borough, but did recognise that the need for pitches would not come to an absolute halt with the achievement of the GTAA figure. As for conventional housing, the target also had to take account of the more limited need arising from natural household growth of the existing resident population in the 2011-2016 period as well as the need arising from the expiration of temporary consents.
- The development of a policy on local needs gypsy sites was under active consideration as the Core Strategy policy for gypsy and traveller accommodation was being developed. Legal advice had been received and a fuller response would be submitted to the Committee in due course.

209. DURATION OF MEETING

6.00 p.m. to 7.50 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

25 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:-

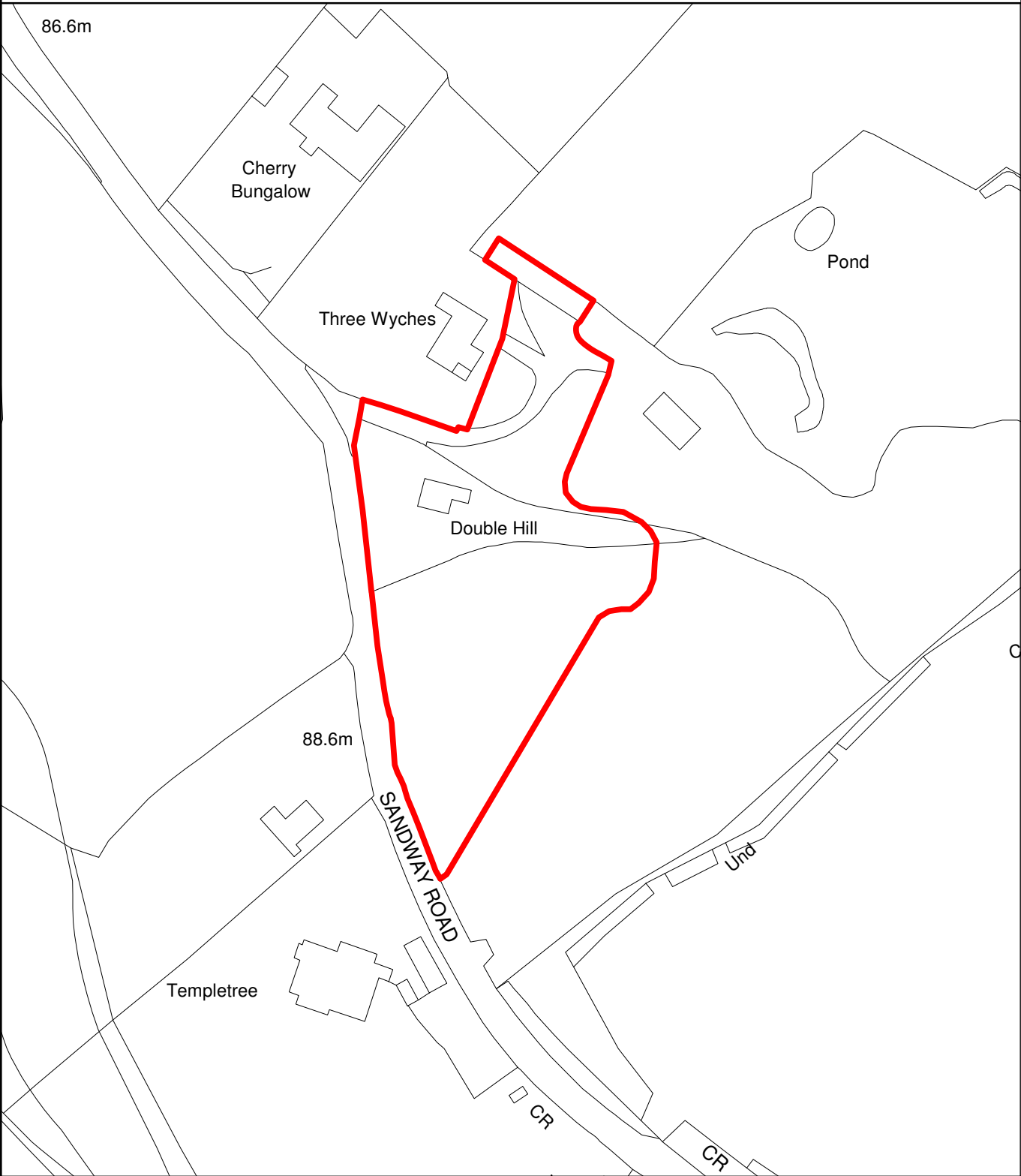
- Seek to negotiate an outcome that would overcome the neighbouring resident's concerns with regard to the form of fenestration.
- Explore whether a landscape condition or Tree Preservation Order is the best way to protect the planting on the site boundaries.
- Investigate ecological mitigation through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

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/2043

GRID REF: TQ8752

STUBBLE HILL COTTAGE,
SANDWAY ROAD, HARRIETSHAM.



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Rob Jarman
Head of Development Management

APPLICATION: MA/09/2043 Date: 10 November 2009 Received: 25 June 2010

APPLICANT: Mr D Adams

LOCATION: STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM,
MAIDSTONE, KENT, ME17 1HT

PARISH: Harrietsham

PROPOSAL: Erection of a replacement dwelling with double garage and creation of a new driveway (re-submission of MA/09/1298), shown on drawing numbers 08.15.35 Rev B, 08.15.34 Rev B, 08.15.30, 08.15.31 Rev A, 08.15.32 Rev A, 08.15.36, 08.15.29 Rev C and 08.15.28 Rev B, a Design & Access Statement and a Tree Survey received on 10/11/09, an ecological survey received on 07/05/10 and a bat survey and a great crested newt survey received on 25/06/10 and drawing no.s 08.15.33 Rev B and 30.117.1A, an aerial photograph, a letter from the agent and a letter from the ecologist received on 27/09/10.

AGENDA DATE: 25th November 2010

CASE OFFICER: Louise Welsford

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

- it was contrary to views expressed by the Parish Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, H32.

South East Plan 2009: C4, CC4, NRM5, NRM7.

Government Policy: PPS1, PPS7, PPS9.

1 HISTORY

- 1.1 **MA/09/1298** Erection of a replacement dwelling.
This application was withdrawn, due to concerns over the impact that the development would have upon the protected Oak tree.
- 1.2 **MA/83/1486** Single storey extension and porch - Approved

2 CONSULTATIONS

- 2.1 See previous Committee Reports. Since the previous Committee Report, the following comments have been received:

Harrietsham Parish Council: wishes to see the application approved.

3 REPRESENTATIONS

- 3.1 No further representations received since the previous Committee Report.

CONSIDERATIONS

4 Background

- 4.1 This application was reported to Planning Committee on 18th March 2010, with a recommendation of approval (subject to conditions). Members deferred the application in order to seek an ecological survey (together with any necessary mitigation measures) and a more comprehensive and detailed landscaping scheme to enhance the setting of the site. Also, Members wished the possibility of improving the design of the proposed dwelling to be discussed with the applicant. A copy of the initial Committee Report is attached at Appendix One.
- 4.2 The application was reported back to Planning Committee on 12 August 2010, following the submission of three ecological surveys. These comprised an initial ecological scoping survey, a Great Crested Newt survey and a Bat Survey.
- 4.3 Members again resolved to defer the application for the submission of much improved and more detailed ecological mitigation measures and enhancements, including additional landscaping, taking into account the bio-diversity importance which has been identified at the site. A copy of the 12 August 2010 Committee report is attached at Appendix Two.

5 PLANNING CONSIDERATIONS

- 5.1 Firstly, it is material to note that the South East Plan, which had ceased to be effective, has now been reinstated, following a High Court Challenge. However, it is proposed to abolish Regional Strategies in the future and the plan is therefore expected to have a limited life span. I therefore consider that limited weight may be afforded to the policies within the South East Plan.
- 5.2 This application was originally considered against the South East Plan prior to its original deferral. In my opinion, there are no significant new issues arising from its reinstatement in relation to this development. The key issues - countryside protection, sustainable development, good design and ecology are dealt with by the Local Plan and Planning Policy Statements.

5.3 Details of planning considerations are contained within the previous two Committee reports. Below is further discussion upon the two issues which led to the deferral – ecology and landscaping.

6 Ecology

6.1 Further details of ecological mitigation measures and enhancements have now been submitted.

6.2 Two additional 'Ecosurv' Bat Boxes are to be built into the replacement dwelling. A hibernacula and log piles are proposed near derelict buildings at the edge of the woodlands. Also, it is proposed to seed the grassland area between the woodland and the quarry with wildflowers. Bat boxes would be positioned at least 3m above ground floor level in a south facing position.

6.3 These mitigation measures have been developed from advice from a qualified ecologist. She has stated that in her view, "the biodiversity value of the entire site is already high and, with the proposed mitigation measures in place, should not be materially affected by the proposed replacement dwelling".

6.4 Whilst bats were found to have used the building, the roost was not found to be a maternity roost and the species using the roost are common and widely distributed in Kent. The bat survey concluded that the roost was of relatively low conservation significance.

6.5 However, as a roost would be lost, it is important to secure suitable mitigation for this impact. In my opinion, the measures now proposed, including bat boxes upon the new dwelling, are proportionate to the conservation significance of the roost to be lost and would adequately address any adverse impact.

6.6 The hibernacula and log piles would provide enhancements for Great Crested Newts and wildflower seeding would also enhance the biodiversity value of the site, by providing increased habitat opportunities for various species.

6.7 I conclude that the ecological mitigation measures and enhancements are wholly appropriate and sufficient for the proposed development. In my view, they are in line with Policy NRM5 of the South East Plan and PPS9, which seek to conserve, and where appropriate, enhance, biodiversity. The site is already of high ecological value and very natural in appearance and the development would enhance the natural appearance and biodiversity value of the overall land holding. The residential curtilage proposed is only a small proportion of the overall land holding and the remainder would left in a natural condition, with enhancements such as the hibernacula added to the attraction for protected species.

7 Landscaping

- 7.1 New landscaping is mainly confined to the frontage of the site and comprises laurel hedging with maple standards to the front corner adjoining the road and drive. There is already established hedging and tree planting along the frontage and this will be retained and allowed to grow to increase the screening. The remaining areas comprise wide, open grassland, where it is proposed to add wildflower seeding between the woodland and the quarry, and well established woodland to the east of the proposed residential area. I understand that the land holding is generally uncultivated and left in its natural state.
- 7.2 In my opinion, the proposed landscaping is appropriate to the character of the site. There is an open area of grassland between well established woodland and the quarry and wildflower seeding is appropriate here, because it would enhance the biodiversity value whilst preserving the open character of the area.
- 7.3 The proposed additional frontage planting comprises laurel hedging with maple standards (semi- mature trees) – indigenous species, which are wholly appropriate to the location.
- 7.4 It is important to note that whilst the overall area within the applicant's ownership is around 9 acres, only a small proportion of this is shown to comprise the residential curtilage. As stated, the remaining areas comprise wide, open grassland between well established woodland.
- 7.5 In my opinion, given the extent of tree coverage within the applicant's ownership, (this is shown upon a submitted aerial photograph), it would not be appropriate to insist upon further tree coverage (other than that proposed for the frontage), because the character of the remaining area of land is generally open.
- 7.6 I am of the view that the proposed landscaping is sufficient for the development and that it would preserve the character and appearance of the countryside, including the openness of this particular site and surroundings. Existing woodland would be conserved by the development. In my view, the proposed landscape proposals are in line with Policies C4 and NRM7 of the South East Plan, Policies ENV28 and H32 of the Local Plan and PPS7.

8 Other Issues

- 8.1 The agent has provided further information upon the design and urbanization of the site. The design and impact upon the character of the countryside are covered in detail in the previous Committee reports.

9 Conclusion

- 9.1 Ecological issues can be satisfactorily addressed through mitigation measures and landscaping would provide a satisfactory appearance to the development. The extent of ecological mitigation and landscaping is appropriate to the visual and ecological impact of the development and the character of the site.
- 9.2 In my view the design would preserve the character and appearance of the countryside and the proposal complies with Development Plan Policy. I therefore 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. Notwithstanding the details shown upon the submitted application form, the development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including details of the colours, have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials in the approved colours;

Reason: To ensure a satisfactory appearance to the development, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

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, B, C, D, E & F and Part 2 Class A shall be carried out without the permission of the local planning authority.

Reason: To safeguard the character and appearance of the countryside, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of the number of plants and spacing for the approved landscaping scheme and details of long term landscape management;

Reason: Full details have not been submitted and to ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

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 use of the access 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, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

6. No development shall take place until an independently verified report has been submitted to and approved in writing by the Local Planning Authority showing that the development achieves a score of Level 3 or better for each residential unit under 'The Code for Sustainable Homes'. Each residential unit shall be provided strictly in accordance with the approved report before it is occupied.

Reason: To ensure a sustainable and energy efficient form of development in accordance with Policy CC4 of the South East Plan 2009 and PPS1.

7. The Oak tree which is the subject of Tree Preservation Order 3 of 2009 must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard the existing Oak tree which of high amenity value and which

is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy C4 of the South East Plan 2009, Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, and PPS7.

8. The development shall not commence until, details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

9. The development shall not commence until, details of the method of construction of the retaining walls and the garage have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To safeguard the existing Oak tree which of high amenity value and which is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy C4 of the South East Plan 2009, Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, and PPS7.

10. The development shall not commence until, details of drainage works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure satisfactory drainage facilities in accordance with PPS23.

11. The development shall be carried out in accordance with the bat mitigation measures detailed in the bat survey received on 24/06/10 and the letter from the agent and the letter from the ecologist received on 27/09/10 prior to the first occupation of the dwelling hereby permitted. The proposed bat boxes shall subsequently be maintained;

Reason: In the interests of biodiversity in accordance with PPS9.

12. The development shall be carried out in accordance with the Great Crested Newt mitigation measures detailed in the Great Crested Newt survey received on 24/06/10 and the letter from the agent and the letter from the ecologist received on 27/09/10 prior to the first occupation of the dwelling hereby permitted. The proposed hibernacula shall subsequently be maintained;

Reason: In the interests of biodiversity in accordance with PPS9.

13. The development shall not commence until, details of all external lighting 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: In order to enhance the habitat value for bats in the interests of biodiversity in accordance with PPS9.

Informatives set out below

Should any reptiles or evidence of reptiles be found prior to or during works, works must stop immediately and a specialist ecological consultant or Natural England contacted for further advice before works can proceed. All contractors working on site should be made aware of it and provided with Natural England's contact details (Natural England, International House, Dover Place, Ashford, Kent, TN23 1HU Tel: 0300 060 4797)

As a below ground level basement is proposed, the applicant is encouraged to seek advice from the Environment Agency regarding any potential for flooding and any measures to be taken to mitigate against this.

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM 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 EHM.

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.

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

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

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. Any redundant materials removed from the

site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

It is also recommended that the applicant contacts the Environment Agency for advice on appropriate drainage for the proposed facilities. This may also be an opportunity for the applicant to investigate the possibilities of using grey water systems to save water.

Good quality materials should be used.

For the avoidance of doubt, the curtilage of the dwelling hereby permitted is as shown on drawing no. 08.15.35 Rev B received on 10/11/09.

The applicant's attention is drawn to the comments in the ecological scoping report regarding the timing of works in relation to breeding birds.

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.

APPLICATION: MA/09/2043 Date: 10 November 2009 Received: 10 November 2009

APPLICANT: Mr D Adams

LOCATION: STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM, MAIDSTONE, KENT, ME17 1HT

PARISH: Harrietsham

PROPOSAL: Erection of a replacement dwelling with double garage and creation of a new driveway (re-submission of MA/09/1298), shown on drawing numbers 08.15.35 Rev B, 08.15.34 Rev B, 08.15.30, 08.15.31 Rev A, 08.15.32 Rev A, 08.15.33 Rev A, 08.15.36, 08.15.29 Rev C and 08.15.28 Rev B, a Design & Access Statement and a Tree Survey received on 10/11/09.

AGENDA DATE: 18th March 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

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, H32.
 South East Plan 2009: C4, CC4.
 Government Policy: PPS1, PPS7.

HISTORY

MA/09/1298 Erection of a replacement dwelling.
 This application was withdrawn, due to concerns over the impact that the development would have upon the protected Oak tree.

MA/83/1486 Single storey extension and porch - Approved

CONSULTATIONS

Harrietsham Parish Council: Wishes to see the application refused and request the application is reported to the Planning Committee for the planning reasons set out below:

- The footprint for the development is far too large;
- The scale and mass of the development is obtrusive

Maidstone Borough Council Landscape Officer:

"The issue that I have been consulted on is specifically whether the development will compromise a maturing Oak tree growing toward the rear of the existing property made subject to TPO 23 of 2009.

Having looked at this amended proposal, I welcome the relocation of the dwelling and retaining wall a further 2m away from the protected Oak tree. Moving the dwelling by this amount has now positioned the retaining wall, new access drive, garage and property outside the Oaks Root Protection Area (RPA) as prescribed in British Standard 5837: 2005. Therefore, I am satisfied that this revised development will not compromise the tree's long-term health or stability.

Recommendation - It is, therefore, recommended that on arboricultural grounds no objections are raised to the application subject to the following conditions.

1. Tree Protection details – Fencing etc
1. Details on construction of the nearby retaining wall & garage."

Maidstone Borough Council Environmental Health Manager: No objections.

Recommends a drainage condition and informatives.

Kent Highway Services: No response.

REPRESENTATIONS

Neighbouring occupiers were notified and raised no objection

CONSIDERATIONS

SITE AND SITUATION

The application site contains a detached bungalow, dating from c.1930s. It is located in the parish of Harrietsham, between Harrietsham village and Sandway, and it is one of a scattered group of houses in Sandway Road.

The house is set above the road level by approximately 2.5m and is set back from the road by between approximately 8 and 11m (the road is at an angle to the house). The western boundary with the road is lined with a mixed hedge, (over which the dwelling

is visible) and a high row of conifers, located further southwards, which obscure views of the dwelling.

Beyond the house, the land slopes upwards further. To the south of the dwelling is what appears to be a disused quarry, (which, incidentally, is within the Channel Tunnel safeguarding area) and perched on the edge of the quarry is a mature Oak Tree. This Oak Tree is of high amenity value and is clearly visible from Sandway Road, to the front of the house. It is protected by Tree Preservation Order 23 of 2009.

To the north of the house lies a driveway leading to an outbuilding, (which is understood to be associated with the subject dwelling), and also "Three Wyches", the nearest neighbouring dwelling to the site, which is located upon the opposite side of the driveway.

"Three Wyches" is a much taller, two storey dwelling and this is seen in the background when approaching from the south. To the north, boundary hedging and trees at "Three Wyches" provide some screening of the site, together with, to a certain degree, the alignment of the road.

The existing dwelling upon the site is a modest bungalow of no aesthetic merit. It has an eaves height of approximately 2.4m and a ridge height of approximately 5.5m.

PROPOSAL

Planning Permission is sought for the demolition of the existing dwelling and the erection of a replacement dwelling, with associated double garage and driveway. The proposed dwelling would have an eaves height of approximately 2.9m – 3.8m and ridge heights of approximately 4.8m and 5.5m. It would have three gables facing the road. Accommodation would include three bedrooms and there would be a lower ground floor, (mainly below the existing ground floor level), with a double garage projecting out into the disused quarry.

Materials comprise facing brickwork and render for the walls and it is suggested that cedar shingles may be used upon the roof.

A sweeping driveway is proposed around the protected Oak Tree, outside of its Root Protection Area. It is also proposed to increase the residential curtilage into the disused quarry area.

PLANNING CONSIDERATIONS

Principle of Development

Central Government Guidance contained within PPS7 advises that built development within the open countryside should be strictly controlled and this theme of restraint is

filtered down to the Maidstone Borough-Wide Local Plan 2000. However, Policy H32 of the Local Plan does allow for the rebuilding of existing dwellings which have a lawful residential use, providing that a number of criterion are met.

The planning history for the site indicates that the dwelling does have a lawful residential use. The principle is therefore considered acceptable.

The main issues arising from this case relate to the visual impact of the development on the character and appearance of the open countryside and the impact upon the Protected Oak Tree.

Visual Impact upon the Countryside

Policy H32 of the Local Plan requires replacement dwellings to be "no more visually intrusive" than the original dwelling upon the site. The reason for this is to protect the character, appearance and openness of the countryside.

The existing dwelling is a bungalow, which is of no aesthetic merit. In essence, it is a rectangular block, with little visual interest in the way of materials or detailing. The house is visible from Sandway Road, outside the site, but longer views are limited by the mature conifer hedge to the south, hedging and trees at "Three Wyches", to the north and, to a certain degree, the alignment of the road.

With a proposed increase of approximately 247m², the proposed dwelling would clearly have a substantially greater footprint than the existing dwelling. However, the policy requirement relates to visual intrusion, rather than footprint.

The ridge height of the proposed dwelling would remain the same as existing, at approximately 5.5m. The main section of the building would be positioned no closer to the road than the existing building. Other elements of the building which would be above ground level would be set back from the front gable by more than 5m and more than 10m, which would substantially reduce their visual impact when viewed from the road.

In terms of design, the new dwelling would be more visually interesting than that existing. The use of several ridges means that the mass of the building would be broken up and it would not appear as one solid, rectangular block. This also results in a low height and mass at roof level.

The use of various ridgelines, gables and details such as exposed rafter feet all contribute, in my view, to creating a good design within the policy requirements.

The retaining wall and garage would be well within the site to the south east of the dwelling. Given their positioning and heights in relation to the land levels, it is not

considered that they would have a significant or detrimental visual impact upon the character of the countryside.

In conclusion, the open character and rural appearance of the surrounding countryside would be adequately preserved by this application.

Although there is not a lot of landscaping upon the site, I do not consider that strong belts of additional landscaping would be appropriate, because the nature of the site is predominantly open, as are the surroundings. However, I do consider some further landscaping to soften the development to be appropriate and I therefore propose such a condition.

Impact upon the Protected Oak Tree

Initially, the previous application, MA/09/1298 proposed that the dwelling be sited closer to the oak tree with a retaining wall to be built within its Root Protection Area. The tree is of high amenity value to the landscape and is in good condition, and the previous application was therefore withdrawn due to concerns over the adverse impact it was considered likely to have upon this tree.

The house has therefore now been removed a further 2m away from the tree, closer to the road (but in line with the existing house), so that the dwelling and retaining walls are shown to be outside of the Root Protection Area. The driveway and re-grading works are also shown to be located outside of the Root Protection Area.

The Landscape Officer has been consulted and considers that this proposal is unlikely to result in significant harm to the health or stability of the oak tree, providing that conditions are attached regarding the method of construction of the retaining walls and garage and tree protection measures to be put in place during the course of construction. I agree with the Landscape Officer's view that, subject to the above conditions, there is unlikely to be a significant adverse effect upon this important tree, which is to be retained.

Visual Impact of the Proposed Driveway

The addition of a further driveway is not to be welcomed. However, it would not be of an excessive width, (being approximately 3m) and positioned relatively close to the house. It cannot be positioned closer to the house, because of the position of the protected Oak tree. The driveway would not be highly visible from the road, with only part of it visible from the entrance area. A condition regarding the proposed materials to be used would ensure suitable materials which would have a satisfactory appearance within this rural location and which would not appear harsh or obtrusive.

Curtilage

Drawing no. 08.15.35 Rev B outlines the site area and area which the applicant wishes to be considered as the curtilage for the new dwelling.

The exact curtilage of the existing building is not clear from an inspection of the site. It appears that a change of use to residential use may be required for some of the land, however, this is predominantly only the land within the former quarry. This is of no high landscape value, nor is it considered to be best or most versatile agricultural land. The extent to which the curtilage is to be increased is considered reasonable in connection with the size of the dwelling and it would not to encroach excessively into the open countryside, or result in an excessive increase above the original curtilage.

Other Issues

The proposal would not give rise to any significant residential amenity issues, because the new dwelling would remain separated from the nearest dwelling, "Three Wyches", by approximately 20m and the new driveway would be no nearer to that property than the existing driveway. "Templetree", to the south, is separated from the site by the road.

The submitted application indicates the proposed dwelling would aim to achieve Level 2 of the Code of Sustainable Homes. This level is considered inadequate for a new replacement dwelling as policies CC4 and H5 of The South East Plan 2009 place greater emphasis on raising the sustainability levels of new dwellings. A condition has therefore been imposed to achieve Level 3 of the Code of Sustainable Homes.

No new access is being created and no objections have been received from Kent Highways with regards to the suitability of the existing access.

There would be no significant impact upon the Channel Tunnel Rail link because of the scale and type of development.

CONCLUSION

Although larger than the existing dwelling, the design and positioning of the new dwelling would ensure that it is not significantly more visually intrusive than the existing dwelling, and it would not significantly harm the character or appearance of the countryside.

In my view, the proposal complies with Development Plan Policy and I therefore 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. Notwithstanding the details shown upon the submitted application form, the development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including details of the colours, have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials in the approved colours;

Reason: To ensure a satisfactory appearance to the development, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000

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, B, C, D, E & F and Part 2 Class A shall be carried out without the permission of the local planning authority.

Reason: To safeguard the character and appearance of the countryside, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with details of the measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include details of all hard landscaping;

Reason: No details have been submitted and to ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and

Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

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 use of the access 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, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

6. No development shall take place until an independently verified report has been submitted to and approved in writing by the Local Planning Authority showing that the development achieves a score of Level 3 or better for each residential unit under 'The Code for Sustainable Homes'. Each residential unit shall be provided strictly in accordance with the approved report before it is occupied.

Reason: To ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009 and Kent Design 2000 and PPS1.

7. The Oak tree which is the subject of Tree Preservation Order 3 of 2009 must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard the existing Oak tree which of high amenity value and which is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy ENV28 of the Maidstone Borough-Wide Local

Plan 2000, Policy C4 of the South East Plan 2009 and PPS7.

8. The development shall not commence until, details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

9. The development shall not commence until, details of the method of construction of the retaining walls and the garage have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To safeguard the existing Oak tree which of high amenity value and which is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, Policy C4 of the South East Plan 2009 and PPS7.

10. The development shall not commence until, details of drainage works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure satisfactory drainage facilities in accordance with PPS23. and the following informatives:

Informatives set out below

It is possible that bats may be using the site. Should any bats or evidence of bats be found prior to or during works, works must stop immediately and a specialist ecological consultant or Natural England contacted for further advice before works can proceed. All contractors working on site should be made aware of it and provided with Natural England's contact details (Natural England, International House, Dover Place, Ashford, Kent, TN23 1HU Tel: 0300 060 4797)

As a below ground level basement is proposed, the applicant is encouraged to seek advice from the Environment Agency regarding any potential for flooding and any measures to be taken to mitigate against this.

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM 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 EHM.

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.

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

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

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. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

It is also recommended that the applicant contacts the Environment Agency for advice on appropriate drainage for the proposed facilities. This may also be an opportunity for the applicant to investigate the possibilities of using grey water systems to save water.

Good quality materials should be used.

For the avoidance of doubt, the curtilage of the dwelling hereby permitted is as shown on drawing no. 08.15.35 Rev B received on 10/11/09.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000

and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

APPLICATION: MA/09/2043 Date: 10 November 2009 Received: 25 June 2010

APPLICANT: Mr D Adams

LOCATION: STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM,
MAIDSTONE, KENT, ME17 1HT

PARISH: Harrietsham

PROPOSAL: Erection of a replacement dwelling with double garage and creation of a new driveway (re-submission of MA/09/1298), shown on drawing numbers 08.15.35 Rev B, 08.15.34 Rev B, 08.15.30, 08.15.31 Rev A, 08.15.32 Rev A, 08.15.33 Rev A, 08.15.36, 08.15.29 Rev C and 08.15.28 Rev B, a Design & Access Statement and a Tree Survey received on 10/11/09, an ecological survey received on 07/05/10 and drawing no. 30.117.1, a bat survey and a great crested newt survey received on 25/06/10.

AGENDA DATE: 12th August 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

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, H32.
Government Policy: PPS1, PPS7, PPS9.

1.0 HISTORY

- 1.1 MA/09/1298** Erection of a replacement dwelling.
This application was withdrawn, due to concerns over the impact that the development would have upon the protected Oak tree.
- 1.2 MA/83/1486** Single storey extension and porch - Approved

2.0 CONSULTATIONS

- 2.1 Harrietsham Parish Council:** "Although the applicant has satisfied our concerns regarding the landscaping, Harrietsham Parish Council would still like to see the planning application refused and request the application is reported to

the Planning Committee. No attempt has been made to address the issues regarding the design and sustainability of the development raised by Members”.

- 2.2 Natural England:** Recommend conditions regarding bat and great crested newt mitigation strategies and an informative regarding reptiles.

3.0 REPRESENTATIONS

- 3.1 No further representation received to date.

CONSIDERATIONS

4.0 Background

- 4.1 This application was reported to Planning Committee on 18th March 2010, with a recommendation of approval (subject to conditions). Members deferred the application, in order to seek an ecological survey (together with any necessary mitigation measures) and a more comprehensive and detailed landscaping scheme to enhance the setting of the site. Also, Members wished the possibility of improving the design of the proposed dwelling to be discussed with the applicant. A copy of the previous Committee Report is attached as an appendix.

5.0 South East Plan

- 5.1 Firstly, it is material to note that the South East Plan is now no longer in force. However, Policy H32 of the Local Plan, the key policy in relation to this development remains in force and Central Government Guidance contained within Planning Policy Statements 1 and 7 maintains the theme of the protection of the countryside and seeks to strictly control development within rural areas.
- 5.2 In my opinion, therefore, there has been no significant change in policy due to the loss of the South East Plan. Policy C4 related to countryside protection, which is dealt with by PPS7 and policy ENV28 of the Local Plan. Policy CC4 related to sustainable development and this is dealt with by PPS1.

6.0 Ecology

- 6.1 Three ecological surveys have now been undertaken. Initially, an ecological scoping survey was carried out to identify any significant ecological issues.
- 6.2 The initial survey did not reveal the presence of great crested newts, but considered that the likelihood of their presence was medium, due to the location of ponds within the vicinity of the development area (within 100m of the new drive). It recommended that a further Great Crested newt survey be carried out.

- 6.3 Bat droppings were found upon the ground and in the loft space of the existing dwelling and it was therefore recommended that a further bat survey be carried out.
- 6.4 It was assumed that reptiles were present on site, but due to the small footprint of the scheme and the large extent of reptile habitat within the surroundings, it was considered that the likely loss of reptile habitat need not be compensated for. However, the survey gives guidance upon the preparation of the site, prior to the commencement of works.
- 6.5 Guidance is given upon the timing of the removal of trees and shrubs which are suitable for use by breeding birds.
- 6.6 The site was considered to be of low potential to support Hazel dormice and no further work was recommended in this regard.
- 6.7 Some signs of badgers were found near to the development site and it was considered that the disused quarry has a high potential to support badgers. The report recommends a walk-over survey be carried out just prior to construction and gives guidance upon the construction phase.
- 6.8 The survey recommends various ecological enhancements – boxes, log piles and hibernacula.
- 6.9 Further bat and Great Crested newt surveys were then carried out.
- 6.10 The bat survey advises that a small number of two species of bat are known to use the building – common pipistrelle and brain long-eared bats. The demolition of the existing building would result in the loss of a roost (within the loft space), but, the report advises, “As the roost includes only ‘small numbers of common species, not a maternity site’ it should be regarded as being of low conservation significance.
- 6.11 The report recommends that the installation of five woodcrete bat boxes upon near-by trees would provide sufficient mitigation. There are a good number of trees upon land owned by the applicant which could fulfil this function.
- 6.12 The Great Crested newt survey identified Great Crested newts within one of the ponds surveyed. However, the Great Crested newt population was considered to be low and the scale of the impact upon habitat was considered to be low. Mitigation measures were recommended, including the construction of hibernacula.

- 6.13 Natural England have been consulted upon the surveys and recommend conditions and informatives regarding the various species. They raise no objections to the proposals.
- 6.14 Given the conclusions of the surveys and the comments of Natural England, I am satisfied that any adverse impact upon protected species, namely the loss of habitat and roosts, could be successfully mitigated for through the imposition of appropriate conditions to provide ecological enhancements. The loss of habitat would not be of such a significant scale as to warrant a refusal and the bat roost is not of high importance to an important population.

7.0 Landscaping

- 7.1 A detailed landscaping plan has now been provided. This shows the retention of the protected Oak tree and existing hedging to the frontage. This also shows additional hedge planting to strengthen the hedgerow planting to the frontage, being laurel hedging with Maple and Sweet Chestnut standards. As the character of the site and surroundings are generally fairly open as one moves further eastwards from the road into the site, no additional planting is proposed further into the site.
- 7.2 In my opinion, the combination of the retention of existing planting and the strengthening of the hedge would provide sufficient softening to the development. The fact that the remainder of the curtilage will be laid generally to lawn would be in keeping with the generally open character of the surroundings.
- 7.3 I am satisfied that the landscaping is sufficiently robust and of appropriate species.

8.0 Design and sustainability

- 8.1 The issue of design has been raised with the applicant. The agent has made the following comments in relation to design:

"The design has evolved over a period of 18 months... and has ... been recommended for approval by officers. My client can see no reason to try to 'tweak' the design at this stage, and any major re-design is not viable."

No alterations to the design are therefore proposed.

- 8.2 I accept that the design is not of outstanding merit, however, this proposal is not seeking to justify an additional dwelling in the countryside on the grounds of outstanding design (as referred to in PPS7).

- 8.3 As previously stated, I consider that the proposed dwelling would be of greater visual interest than the existing building. It would use several ridges to break up the mass and create interest and it includes good detailing, for example exposed rafter feet.
- 8.4 In my opinion, the design would result in no significant harm to the character or appearance of the countryside and it would be a visual improvement over the existing design.
- 8.5 I therefore conclude that the design is acceptable.
- 8.6 A condition regarding Level 3 of Code for Sustainable Homes is proposed and in my opinion, this is suitable for this scale of development.

9.0 Conclusion

- 9.1 Ecological issues can be satisfactorily addressed through mitigation measures and landscaping would provide a satisfactory appearance to the development.
- 9.2 In my view the design would preserve the character and appearance of the countryside and the proposal complies with Development Plan Policy. I therefore 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. Notwithstanding the details shown upon the submitted application form, the development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including details of the colours, have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials in the approved colours;

Reason: To ensure a satisfactory appearance to the development, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

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, B, C, D, E & F and Part 2 Class A shall be carried out without the permission of the local planning authority.

Reason: To safeguard the character and appearance of the countryside, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a programme for the approved landscaping scheme's implementation and long term management;

Reason: Full details have not been submitted and to ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

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 use of the access 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, in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

6. No development shall take place until an independently verified report has been submitted to and approved in writing by the Local Planning Authority showing that the development achieves a score of Level 3 or better for each residential unit under 'The Code for Sustainable Homes'. Each residential unit shall be provided strictly in accordance with the approved report before it is occupied.

Reason: To ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009 and Kent Design 2000 and PPS1.

7. The Oak tree which is the subject of Tree Preservation Order 3 of 2009 must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing

by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard the existing Oak tree which of high amenity value and which is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, Policy C4 of the South East Plan 2009 and PPS7.

8. The development shall not commence until, details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure a satisfactory appearance to the development in accordance with Policy C4 of the South East Plan 2009 and Policies ENV28 & H32 of the Maidstone Borough-Wide Local Plan 2000.

9. The development shall not commence until, details of the method of construction of the retaining walls and the garage have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To safeguard the existing Oak tree which of high amenity value and which is to be retained and to ensure a satisfactory setting and external appearance to the development, in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, Policy C4 of the South East Plan 2009 and PPS7.

10. The development shall not commence until, details of drainage works have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land;

Reason: To ensure satisfactory drainage facilities in accordance with PPS23.

11. The development shall not commence until, details of a bat mitigation strategy have been submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved strategy, unless otherwise agreed in writing by the Local Planning Authority;

Reason: In the interests of biodiversity in accordance with PPS9.

12. The development shall not commence until, details of a great crested newt mitigation strategy have been submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved strategy, unless otherwise agreed in writing by the Local Planning Authority;

Reason: In the interests of biodiversity in accordance with PPS9.

13. The development shall not commence until, details of all external lighting 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: In order to enhance the habitat value for bats in the interests of biodiversity in accordance with PPS9.

Informatives set out below

Should any reptiles or evidence of reptiles be found prior to or during works, works must stop immediately and a specialist ecological consultant or Natural England contacted for further advice before works can proceed. All contractors working on site should be made aware of it and provided with Natural England's contact details (Natural England, International House, Dover Place, Ashford, Kent, TN23 1HU Tel: 0300 060 4797)

As a below ground level basement is proposed, the applicant is encouraged to seek advice from the Environment Agency regarding any potential for flooding and any measures to be taken to mitigate against this.

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM 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 EHM.

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.

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

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

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. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

It is also recommended that the applicant contacts the Environment Agency for advice on appropriate drainage for the proposed facilities. This may also be an opportunity for the applicant to investigate the possibilities of using grey water systems to save water.

Good quality materials should be used.

For the avoidance of doubt, the curtilage of the dwelling hereby permitted is as shown on drawing no. 08.15.35 Rev B received on 10/11/09.

The applicant's attention is drawn to the comments in the ecological scoping report regarding the timing of works in relation to breeding birds.

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.

39

A photograph of a white house with a gabled roof and two chimneys, partially obscured by dense green bushes. A utility pole with power lines is visible to the right. The number '39' is overlaid on the image.

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GD07 JVO



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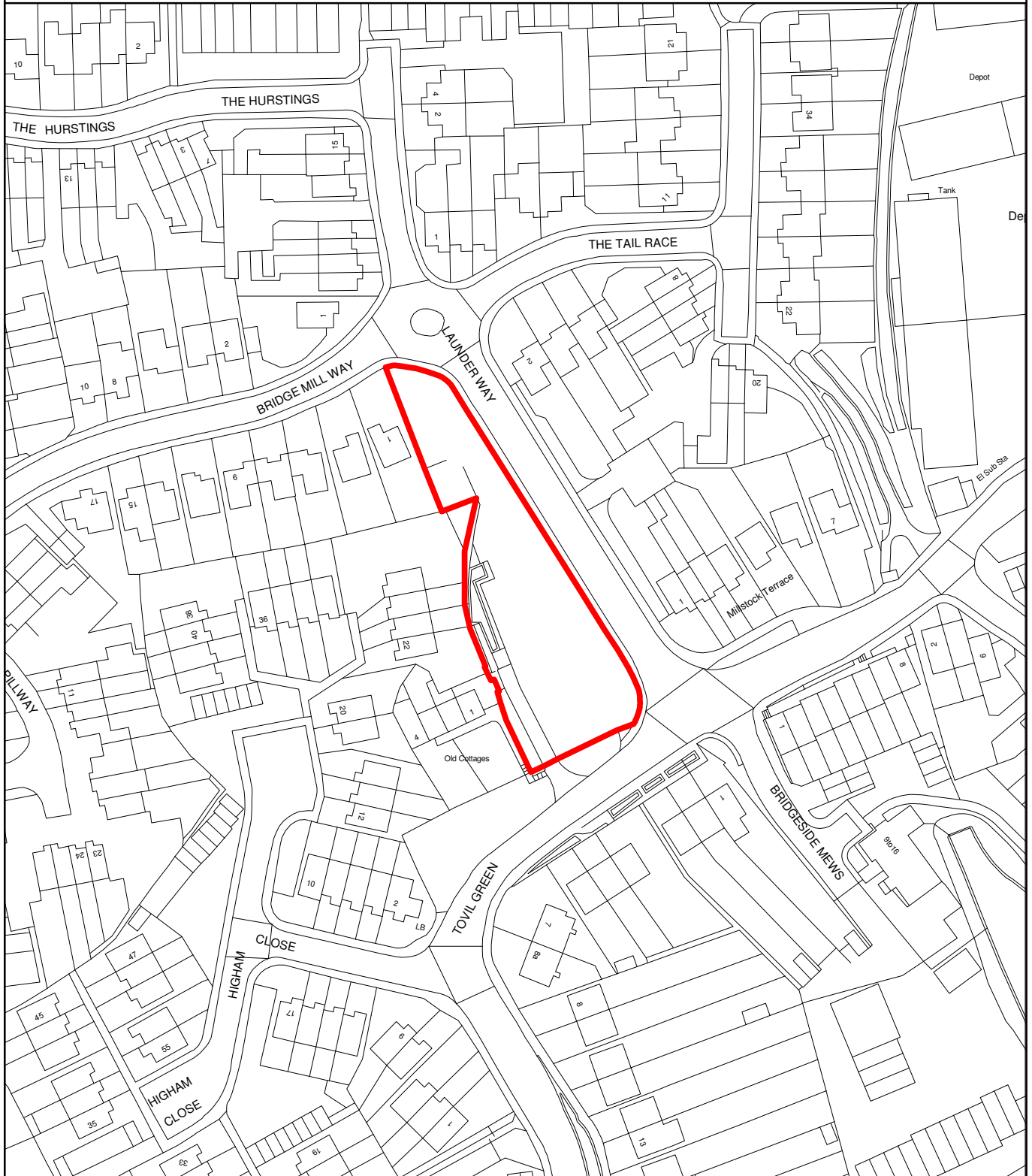
Agenda Item 14

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0202

GRID REF: TQ7554

**SHARP HOUSE,
TOVIL GREEN, TOVIL.**



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/0202 Date: 2 February 2010 Received: 23 February 2010
APPLICANT: Mr N Piper, U Fit Conservatories Ltd
LOCATION: SHARP HOUSE, TOVIL GREEN, TOVIL, MAIDSTONE, KENT, ME15 6RL
PARISH: Tovil
PROPOSAL: Planning application for erection of 14 dwellings as shown on drawing numbers GPM2 014/02, GPM2 014/03, GPM2 014/04, GPM2 014/05 and GPM2 014/06 and design and access statement received on 23/2/10 as amended by drawing numbers GPM2 014/01 and GPM2 014/06 and design and access statement received on 16/7/10 and viability appraisal received on 13/8/10.
AGENDA DATE: 25th November 2010
CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Tovil Parish Council

1 POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13, CF1
Open Space DPD 2006
South East Plan 2009: CC1, CC4, H4, H5, T4, NRM4, BE1
Government Policy: PPS1, PPS3, PPG13, PPS23, PPS25

2 HISTORY

MA/07/1384 Erection of eleven houses – APPROVED WITH CONDITIONS.
MA/06/1809 Erection of twelve dwelling houses. Resubmission of MA/06/1303 – WITHDRAWN.
MA/06/1303 Erection of twelve houses – WITHDRAWN.

3 CONSULTATIONS

3.1 Tovil Parish Council wish to see the application REFUSED stating:-

'Tovil Parish Council recommends refusal of this application for the following reasons:

- Over development of the site
- Further deterioration in existing garden space

The site has planning permission for 11 units giving a density of 57 units per hectare. This new application would result in a density of 70 units per hectare. This is far outside government guidelines as set out for previously developed brownfield land as mentioned in PPS3 Housing para 41. It also stipulates that densities should be at least 30 units per hectare whilst giving some flexibility in density permissions.

The South East Plan 2009 Policy H5 housing design and density states that the average density for the region is now increased to some 40 units per hectare in the context of high quality design.

It is for all the above reasons that Tovil Parish Council recommends refusal of this application.

If Officers are mindful to approve the application Tovil Parish Council requests that it is brought before the Maidstone Borough Council Planning Committee.'

3.2 Mouchel on behalf of KCC have requested the following contributions:-

- £806.86 for improving library bookstock;
- £277.04 for adult social services;
- £4462.50 in total for the provision of (part thereof) a Youth Worker.

No contributions are sought for adult education, primary or secondary education.

3.3 West Kent PCT have requested a contribution of £12,960 towards providing healthcare including The Vine GP surgery and other healthcare services such as dentists and acute secondary care.

3.4 EDF Energy have no objections to the application.

3.5 Southern Gas Networks raise no objections to the application.

- 3.6 **Southern Water** confirm they can provide foul drainage to the development and recommend an informative be added to advise the applicant to contact Southern Water with a view to connecting to the main sewer system.
- 3.7 **MBC Parks and Public Open Space** request a contribution of £22050 (£1575/unit) towards the improvement of some or all of the nearby existing open spaces (within 1 mile) to accommodate the additional usage created as a result of this development. The list of identified open spaces is set out below and includes the different types of open spaces identified with the Council's Green Spaces Strategy:-
- Woodbridge Drive Play Area
 - Millers Wharf
 - Bridge Mill Way Open Space
 - The River Medway path
 - South Park
- 3.8 **MBC Environmental Health Manager** recommends conditions with regard to land contamination and landfill gas as well as informatives.
- 3.9 **MBC Conservation Officer** raises no objections with regard to the setting of the adjacent Grade II listed buildings 1-4 Old Cottages, Tovil Green.
- 3.10 **MBC Property Services Manager** has examined the submitted financial appraisal and notes that there are no professional fees built into the appraisal. Even without the professional fees the scheme 'does not work financially' on the basis of the land value that the applicant has purchased the site for.
- 3.11 **Kent County Council Highway Services** were consulted and have no objections to the application in respect of highway matters.

4 REPRESENTATIONS

- 4.1 Neighbouring occupiers were notified and two letters of objection have been received on the following grounds:-
- The proposal is over development of the site;
 - There are existing parking problems within the locality and these will be exacerbated by this proposal.

5 CONSIDERATIONS

5.1 Site Description

- i. The site is located in Tovil Parish and the urban area of Maidstone, with three frontages to Tovil Green (to the south), Launder Way (to the east) and Bridge Mill Way (to the north).
- ii. The site, which extends to 0.19ha, previously contained a large industrial building with the rest of the site covered by hard surfaced car parking. The building has since been demolished and the land is vacant.
- iii. The surrounding area of this part of Tovil is predominantly residential in character with a mix of housing styles.
- iv. There is a terrace of Grade II listed dwellings to the south west of the site, 1-4 Old Cottages, with residential development immediately to the west. The listed terrace to the west of the site is modest in scale, being white weatherboarded with a clay tiled roof. The area is wholly residential in character.
- v. The site itself is very constrained by its long thin shape, its proximity to the listed terrace and the abrupt 4m embankment which separates the site from the residential development in Higham Close to the west. There is a retaining wall to the rear of the site, which projects forwards, to narrow the site. Surrounding development is mostly residential. There is a large housing estate to the east and north constructed in the late 1980s. Residential development along Tovil Green is older and more varied in appearance.
- vi. The site is located within walking distance of many local services, including a supermarket and school. Buses run along Farleigh Hill, approximately 400m from the application site.

5.2 Proposal and Background

- 5.2.1 This is a full planning application for the erection of 14 dwellings, four 2 bedroom properties and ten 3 bedroom properties. There would be a detached dwelling and a pair of semi detached dwellings fronting Tovil Green. A terrace of seven dwellings and a pair of semi detached properties fronting Launder Way with a further pair of semi detached dwellings at the junction of Launder Way and Bridge Mill Way.
- 5.2.2 Planning permission has already been granted for 11 dwellings on the site under reference MA/07/1384. This application was reported to Planning Committee on 11 October 2007 where Members gave Delegated Powers to permit subject to revised garage details, no objections from the Highway Authority and exploration

of sustainable construction methods. These details were acceptable and the application was subsequently approved. This permission remains extant and could be implemented. This fall back position is a material consideration in the determination of this planning application.

- 5.2.3 The key differences between the approved scheme and the current scheme are:-
- The increase in the number of units proposed from 11 to 14 is a clear change.
 - The additional three dwellings are effectively, plot 2, which has been created by reducing the size of plot 3 and creating a pair of semi detached dwellings rather than a detached dwelling.
 - An additional terraced property creating a terrace of seven rather than six.
 - A pair of semi detached dwellings rather than a detached dwelling between the terrace of houses and the semis that front the junction of Launder Way and Bridge Mill Way.
 - The projecting garages have been taken off the front elevation of the terraced properties as have the Juliet balconies.
- 5.2.4 All the dwellings would be two storeys in height with some utilising the roofspace for additional accommodation with dormer windows. There would be 10 three bedroom dwellings and 4 two bedroom dwellings.
- 5.2.5 There would be 17 car parking spaces for the 14 units proposed as part of the development (the previous application proposed 11 spaces for 11 dwellings). Each property would have at least one car parking space (plots 1 and 2 would have two spaces on a drive, plots 3-10 would have one space on a drive, plot 11 would have one space in a garage and one on a drive, plots 12-14 would have one space in a garage although the garage spaces are below the recommended size).

5.3 Principle of Development

- 5.3.1 The site is previously developed land within the urban area of Maidstone. Therefore the site is acceptable for residential development in accordance with national guidance in PPS3 and Development Plan policies. When previous planning permission was granted there was a minimum density of 30 dwellings per hectare but now the minimum density has gone in the revised PPS3.
- 5.3.2 The site is vacant and is not protected employment land (in terms of the Local Plan) and as such there is no barrier to residential development. Furthermore, this is demonstrated by the granting of permission MA/07/1384.
- 5.3.3 The density of the proposed development is approximately 74 dwellings per hectare. This is considerably above the minimum density of 30 dwellings per hectare recommended in PPS3. However, these recommendations are minimum densities and higher densities are acceptable in urban areas. The critical

assessment on density is the impact on the character and appearance of the area. This development is a mix of terraced and semi detached family dwellings, which is similar in terms of the form and layout of the development in the surrounding roads. As such I do not consider that this is overdevelopment of the site.

5.3.4 Furthermore, I consider that this is a site within a sustainable location. As stated, the site is within walking distance of a supermarket, industrial areas, schools and the town centre can be reached by foot (although approximately 1.5km from site) or by bus, which runs along

5.4 **Visual Impact**

5.4.1 The surrounding area is predominantly residential with a mix of size and type of property but generally a mix of terraced and semi detached properties.

5.4.2 Although there is an increase in the number of units by 3 houses, the proposed development is essentially the same design and layout as previously approved under MA/07/1384. There is a row of terraced properties being the main feature along the Launder Way with a pair of semi detached dwellings at the junction of Launder Way and Bridge Mill Way. The main differences are the additional three dwellings being, plot 2, which has been created by reducing the size of plot 3 and creating a pair of semi detached dwellings rather than a detached dwelling, an additional terraced property creating a terrace of seven rather than six and a pair of semi detached dwellings rather than a detached dwelling between the terrace of houses and the semis that front the junction of Launder Way and Bridge Mill Way. The projecting garages have been taken off the front elevation of the terraced properties as have the Juliet balconies.

5.4.3 The detached dwelling on plot 1 would be read in the context of the listed terrace adjacent. It would be constructed on an existing terraced area, bounded by a retaining wall, which is approximately 2m higher than the remainder of the site, yet lower than the ground level of the listed terrace. The listed terrace is set back from the road behind a low fence and hedging. The front elevation of the proposed dwelling on plot 1 would be set 13m to the front of the listed terrace, 8.5m back from the edge of the road. The size of this dwelling is also modest. The ridge of the roof, which is shown to be approximately 8.5m high, to ensure that there would be a step change in building heights between the listed terrace, plot 1 and plot 2, reflecting the gradient at this point. The gradient has also been used to set the garage into a basement area, making best use of the land available and reducing its visual impact. It is considered that this building has been sensitively designed and would not prejudice the setting of the listed terrace. The Conservation Officer has raised no objections to the proposal.

- 5.4.4 The mixed nature of the residential character means that the area does not have a uniform pattern or form. To develop this site the proposal addresses all three road frontages and is of a scale that is comparable with the surrounding development.
- 5.4.5 The pair of dwellings on plots 2 and 3 occupies a corner site, its front and side elevation being prominent in views travelling north east and south west along Tovil Green. These dwellings would be approximately 8m in height. They have been designed to be of traditional proportions and detailing, incorporating a bay window and gable to the front across both storeys. Visual interest has been added to the side elevation with a ground floor bay, entrance door as well as first floor windows. The driveways would be provided to the sides of the properties, which would ensure that the corner was a green front garden and there would be visual separation between these dwellings and the adjacent terrace. It is considered that the design of this dwelling is of an appropriate quality and detailing for this prominent location given its context, and there are sufficient areas of landscaping proposed to allow for it to be successfully assimilated into the street scene.
- 5.4.6 Seven dwellings are proposed in the terrace fronting Launder Way. The main part of the building has been set back 6m from the edge of the path; however, each house would have a driveway to the front. The terrace would have a constant ridge level but would vary in height from approximately 10m at the southern end to 9m at the northern end due to the rise in land levels. The terrace has been visually broken up with a rendered façade to the dwelling on plot 7, similar to that approved under application MA/07/1384. This proposed terrace would integrate well into the surrounding area and would be acceptable in the street scene. The loss of the projecting garages from the previous approval has led to the ability to increase the level of landscaping proposed being front garden areas including street trees and boundary hedgerows.
- 5.4.7 The pair of semi detached dwellings at plots 11 and 12 would integrate well with the adjacent terrace. Plot 11 would be linked to the terrace by a single storey attached garage. This would have a flat roof which would be used as a roof terrace for the occupiers. The height of plot 11 would be approximately 8.5m and therefore slightly below that of the adjacent terrace. The dwelling at plot 12 would be again lower in height than plot 11 approximately 7.5m. The northern end of the property would be a two storey gable to act as an end point to the two storey part of the development. Attached to plot 12 would be two single storey garage buildings with a flat roof. This would ensure that adequate spacing at first floor level is created between the dwelling at plot 12 and the rear of the dwellings at plots 13 and 14. These two dwellings would integrate well with the remainder of the development and be acceptable in the street scene.

5.4.8 The pair of semi detached properties that would front Bridge Mill Way would be plots 13 and 14. These would be read alongside the dwellings on Bridge Mill Way. The dwellings proposed would be 8.9m in height with a projecting front gable. The first floor external area would be rendered. These dwellings would be positioned in front of the other properties in the road. However, there is no definitive building line and the mixture of properties within the area means that there is differing set backs from the road. The proposed properties would retain a significant front garden and would be in the same location as the pair of semi detached properties permitted under MA/07/1384. The scale and design of the buildings are considered appropriate in their context.

5.4.9 Improvements have been made to the scheme following negotiations with the applicant to ensure that the plots at the corners of Launder Way and Bridge Mill Way/Tovil Green are both double fronted properties. This would result properties that have a presence to all street frontages, that provide visual interest and also that prevent harsh blank flank elevations. In addition, further landscaping has been secured along Launder Way to the flank of plot 13 and the front gardens of the row of terraced properties. These improvements would result in a better development with a softer setting assisting in 'greening up' the area. The amount and variation of landscaping is greater under this proposal than that approved under MA/07/1384.

5.4.10 Overall, the proposed layout would retain adequate space around the dwellings and would not appear cramped. The additional landscaping proposed would provide a soft setting to the development and would assist in 'greening up' the area.

5.5 **Residential Amenity**

5.5.1 The surrounding area is predominantly residential with dwellings surrounding the site as well as on the opposite side of Launder Way.

5.5.2 The front of the terraced dwellings would look towards the rear garden areas of the dwellings on the opposite side of Launder Way. Any views would be over a distance of 20m and over a public highway. Therefore it is not considered that the amenity of the occupiers of these dwellings would be harmed through either levels of privacy, light or outlook.

5.5.3 The dwellings to the west of the site are in Higham Close and are located approximately 4m above the application site. This difference in land levels and the significant tree and shrub planting along the boundary would ensure that there would be no harm to the amenity of occupiers from either levels of privacy, light or outlook.

5.6 Highways

- 5.6.1 There would be no new roads created as part of the proposal. The access points from the driveways would be in approximately the same places as the previously approved application MA/07/1384. The access arrangements, being essentially the same as the approved development would not result in a significant impact on highway safety.
- 5.6.2 The proposed level of car parking would result in 17 car parking spaces for the 14 dwellings, previously there was 11 spaces for the approved 11 dwellings. The dwellings of plots 1 and 2 would have two spaces on a drive, plots 3-10 would have one space on a drive, plot 11 would have one space in a garage and one on a drive, plots 12-14 would have one space in a garage. The garage spaces for plots 12, 13 and 14 are smaller than the recommended size. However, even if these garages are not used for the parking of cars the on street parking of vehicles in this location would not result in any significant highway safety issues. This level of parking is appropriate for development of this scale and type on the edge of the town with good bus services into Maidstone and the level of amenities in the area.
- 5.6.3 There are no parking restrictions in the area and therefore any visitor parking could be accommodated on street without resulting in any hazards to highway safety.

5.7 Landscaping

- 5.7.1 The proposed scheme includes a scheme of landscaping, in particular to enclose the front garden areas with hedgerows and provide trees in the larger areas. These hedgerows and trees soften the appearance of the development and assist in the screening of the rubbish and recycling bin storage areas for the terraced properties.
- 5.7.2 The hedgerow proposed down the side of plot 13 provides a natural screen for this properties rear garden and assists in further breaking up the flank of the property.
- 5.7.3 The landscaping for this development has been improved when compared to the extant planning consent of MA/07/1384 and would provide a good setting to the development.

5.8 Other Matters

5.8.1 Ecology

5.8.2 There are no significant ecological issues with regard to the site. Ecology was not a determining issue in the previous application and there have been no significant changes in the circumstances of the site in the intervening period.

5.8.3 **Contributions**

5.8.4 The proposed development would result in fourteen new residential units in the area. Policy CF1 of the Maidstone Borough-Wide Local Plan (2000) seeks the provision of or contribution to new community facilities, whilst the Council's Open Space DPD adopted in December 2006 seeks the provision or contributions towards all forms of public open space.

5.8.5 The development falls below the threshold for requiring affordable housing. However, there would be a requirement for contributions towards public open space (£22,050), healthcare (£12,960) and to KCC for adult social services (£277.04), libraries (£806.86) and youth & community (£4,462.50 in total for a Youth Worker).

5.8.6 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Act. This has strict criterion that sets out that any obligation must meet the following requirements: -

It is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.8.7 The existing permission included conditions requiring the applicant to enter into a legal agreement to provide contributions towards public open space and primary healthcare.

As can be seen from the above, Maidstone Borough Council Parks and Open Space Officer was consulted and has requested that a contribution of £1,575 per dwelling be made to improve the open space provision within the locality. It has been agreed that this money would be spent to improve the open space facilities within immediate area with priority going to existing open spaces in South Ward. As this permission would see the provision of dwellings, I consider that they are capable of being suitable for family accommodation. I therefore am of the opinion that providing these contributions would not only be in accordance with the Councils adopted Development Plan Document (DPD) but the three tests set out above.

5.8.8 The Primary Health Care Trust have requested contributions of £12,960 towards the provision of healthcare. There are a number of GP Surgeries in the vicinity

The Vine Medical Centre and Lockmeadow Clinic less than 0.5 miles from the site, however, these either require a walk across the footbridge over the River Medway and up to Tonbridge Road or a drive through town, in addition the Vine Surgery states on its website that the patient catchment area is only west of the river (thereby excluding Tovil). The next closest surgery is the College Practice on College Road (approximately 0.7 miles away), however, it has been confirmed by the PCT that this could not be extended further. The PCT have confirmed that the surgery at King Street is programming improvement works to accommodate future demand as is the surgery at Holland Road, both approximately 1 mile from the site as is the Northumberland Court Surgery in Shepway approximately 1.8 miles from the site. Therefore the money requested would be spent at one of these three surgeries to offer the choice to the prospective residents of this development. For information the application at Astley House, Hastings Road (MA/10/0594) on the papers contains a proposal for contributions towards the King Street surgery improvements.

5.8.9 Mouchel on behalf of KCC have requested contributions towards adult education (£277.04 in total for Telecare Assistance technology Lifetime Package), libraries (£806.86 towards additional bookstock for the new library) and youth & community (£4,462.50 in total for a Youth Worker). It is clear from the level of the contributions that Mouchel are calculating only for the additional demand on the services that will be generated by this development and not for developments that are already in development, for example the construction of the library facility itself. I consider that the request for contributions meets the tests of the regulations.

5.8.10 The agent for the applicant has submitted a viability appraisal that has been undertaken by Sibley Pares Chartered Surveyors. This appraisal includes the development costs, cost of the site and the Section 106 contributions totalling £24,000. With these costs the potential profit for the site is considerably below the typical profit margin of 17-20% for investment. The Council's Property Services Manager has been consulted on the submission and is in agreement that the scheme would not be viable if all contributions were to be paid.

5.8.11 It is important to encourage development on this derelict urban site. Therefore I consider it appropriate to accept the contributions totalling £24,000. I would suggest the following breakdown of Section 106 costs:-

- £11,458.05 towards public open space to be spent on improvements at one of the following open spaces; Bridge Mill Way Open Space, Woodbridge Drive Play Area, Millers Wharf, The River Medway path, South Park with priority to those in South Ward.
- £11,458.05 towards healthcare to be spent improving either the King Street, Holland Road or Northumberland Court surgeries.

- £277.04 towards Telecare Assistance technology Lifetime Package for adult social services
- £806.86 towards bookstock for the new library at Sandling Road.

5.8.12 The requested contributions to be paid comply with the regulations and are in accordance with policy CF1 of the Maidstone Borough-Wide Local Plan (2000) and the Open Space DPD adopted in December 2006.

5.9 **Private Amenity Space**

5.9.1 Each of the proposed dwellings would have its own private garden area. The terraced properties rear gardens would typically be 4.8m wide and an average of 8m deep, the other dwellings would have larger garden areas for the provision of outdoor space. These would all be of a reasonable size and whilst the rear gardens of plots 3-9 would have high boundaries on two sides (the embankment, boundary treatment to plot 1 and the rear elevation of the terrace), there would be an open aspect to the south allowing sunlight penetration. The garden for plot 11 would be the smallest but would still provide a patio area and a lawned area for the occupiers' enjoyment. In addition this dwelling would have a roof terrace area above the garage for additional outdoor space.

5.9.2 The level of private amenity space proposed is adequate for these family dwellings and complies with the requirements of PPS3.

5.10 **Sustainable Construction**

5.10.1 The proposed dwellings would be constructed to achieve level 3 on the Code for Sustainable Homes. This is in accordance with the Council's aims and approach to sustainable construction and Central Government guidance contained within PPS1.

6 **CONCLUSION**

6.1 The proposed 14 dwellings would be located on previously developed land within the urban confines of Maidstone and as a result the principle of this residential development is acceptable. The proposal would represent a density of 74 dwellings per hectare, which is above the minimum required by PPS3, however, it would not appear out of context in the surrounding area. There is an extant planning permission, MA/07/1384, which is a strong material consideration when determining this application.

6.2 The development would be constructed in a way that would enhance the character of the surrounding area and would be improved further with additional landscaping and the creation of green front garden areas where possible. The

development would not visually detract from the setting of the nearby listed buildings and the Conservation Officer raises no objections to the development.

- 6.3 There would be no significant highway issues resulting from the development and the level of car parking (17 spaces for 14 dwellings) would be appropriate for this edge of town location.
- 6.4 It has been demonstrated by the applicant that the scheme is not viable if all the contributions that are sought are paid. However, following negotiations the applicant is able to enter into a Section 106 to provide the following contributions towards public open space (£11,458.05), healthcare (£11,458.05), adult social services (£277.04) and libraries (£806.86).
- 6.5 Overall, the proposal, whilst an increase in the number of dwellings from the previous approval it would provide a good quality development that would enhance this part of the town and utilise a currently derelict site.

7 RECOMMENDATION

SUBJECT TO:

- A: The prior completion of a legal agreement to secure;
- Contributions for MBC Parks and Leisure. This would consist of a contribution of £11,458.05 towards the provision or improvement of Open and Green Spaces listed below with priority to those in South Ward.
 - Bridge Mill Way Open Space
 - Woodbridge Drive Play Area
 - Millers Wharf
 - The River Medway path
 - South Park
 - Contributions for healthcare. This would consist of a contribution of £11,458.05 towards the improvements of either the King Street, Holland Road or Northumberland Court surgeries.
 - Contributions for KCC libraries. This would consist of a contribution of £806.86 towards bookstock for the new library.
 - Contributions for KCC adult social services. This would consist of a contribution of £277.04 towards Telecare Assistance technology Lifetime Package.

The Head of Development Management be given DELEGATED POWERS to GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
GPM2 014/01 Rev A, GPM2 014/02, GPM2 014/03, GPM2 014/04, GPM2 014/05, GPM2 014/06 Rev A;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers. This in accordance with policy H5 of the South East Plan (2009) and guidance contained in PPS1 and PPS3.

3. No development shall take place until written details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policy H5 of the South East Plan (2009) and guidance contained in PPS1 and PPS3.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management;

Reason: No such details have been submitted pursuant to policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

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 occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

6. No development shall take place until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with policy H5 of the South East Plan (2009) and guidance contained in PPS1 and PPS3.

7. The development hereby permitted shall be carried out strictly in accordance with the slab levels shown on the approved drawings;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with policy H5 of the South East Plan (2009) and guidance contained in PPS1 and PPS3.

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

Reason: to ensure a sustainable and energy efficient form of development in accordance with Kent Design 2000 and PPS1.

9. No development shall commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works shall be carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment in accordance with guidance in PPS23.

10. No development shall take place until a detailed scheme for the investigation, recording and remediation of gas to safeguard the future occupants of the site has been submitted to and approved in writing by the Local Planning Authority. Such a scheme to comprise:
1. A report to be submitted to and approved by the Local planning authority. The report shall include a risk assessment and detail how on site monitoring during the investigation took place. The investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a methodology that complies with current best practice, and these details reported.
 2. Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved by the Local Planning Authority. The Proposals shall detail sources of best practice employed.
 3. Approved works shall be carried out in full on site prior to first occupation.
 4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the Local Planning Authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme;

Reason: To prevent harm to human health and pollution of the environment in accordance with guidance in PPS23.

11. No development shall take place until a scheme of surface water drainage 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 adequate drainage arrangements and to prevent localised flooding in accordance with policy NRM4 of the South East Plan (2009) and guidance in PPS25.

12. The area shown on the submitted layout as vehicle parking space or garages shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure adequate parking provision for the development in accordance with policies T13 of the Maidstone Borough-Wide Local Plan (2000) and T4 of the South East Plan (2009).

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A and B shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers in accordance with policy H5 of the South East Plan (2009) and guidance contained in PPS1 and PPS3.

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.

No burning shall take place on site.

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

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

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.

This permission does not convey any approval for the required vehicular crossing or any other works within the highway which a licence must be obtained. Applicants should telephone 08458 247800 in order to obtain the necessary Application Pack.

Adequate precautions should be taken in order to prevent the discharge of surface water, loose material etc., from the drive area onto the public highway.

As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

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.

67

18.11.2010

68

18.11.2010

A photograph showing a residential area with a fence and overgrown vegetation. The fence is made of wooden posts and wire mesh. The vegetation is dense and brownish, suggesting it might be dead or dormant. In the background, there are several houses with red brick walls and brown roofs. The sky is overcast and grey. The number '69' is written vertically in black text on the left side of the image. The date '18.11.2010' is written in orange text in the bottom right corner.

69

18.11.2010

70

18.11.2010



18-11-2010



72

TOVEL GREEN

18.11.2010

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18.11.2010

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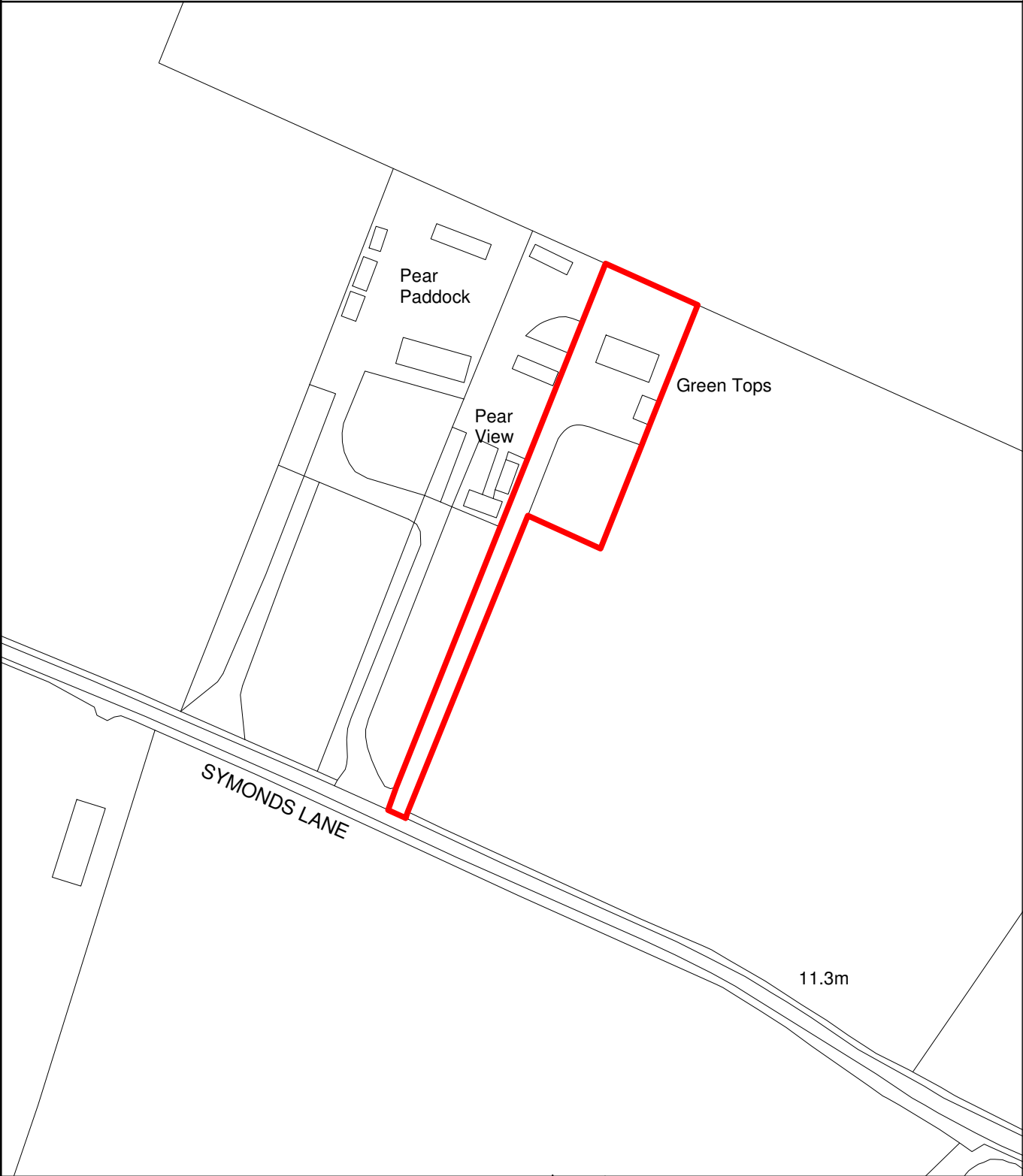
18.11.2010

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0504

GRID REF: TQ6949

**GREEN TOPS,
SYMONDS LANE, YALDING.**



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/0504 Date: 5 March 2010 Received: 23 March 2010
APPLICANT: Mr M Cash
LOCATION: GREEN TOPS, SYMONDS LANE, YALDING, MAIDSTONE, KENT, ME18 6DD
PARISH: Yalding
PROPOSAL: Planning application for the change of use of land to residential use for stationing of 1no. mobile home and 1no. touring van and for erection of utility block and associated works including surface area treatment, cesspit and boundary treatment
AGENDA DATE: 25th November 2010
CASE OFFICER: Amanda Marks

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

- it is contrary to views expressed by the Parish Council

1 POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, T13
Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 01/2006
South East Plan: C4, C5

2 HISTORY

MA/03/1756 Change of use to residential and the stationing of one mobile home for gypsy family Refused 22/12/03, appeal dismissed 15/12/04

Extensive planning enforcement history – see main report for details

3 CONSULTATIONS

- 3.1 **Yalding Parish Council:** strongly object to the application to the application. "The development is visibly intrusive within the countryside and will result in a concentration of such development which would be harmful to the character of the area. The site is situated within an area identified as being at a high Risk of flooding which would be inaccessible during a flood event. This would cause an unacceptable risk to life."
- 3.2 **Environmental Health Officer:** "The site should be used for residential purposes only and maintained in good order. It should not be used for business

purposes, it should also not be used for the use and/or storage of commercial vehicles. Any tourers on site should not be used for habitation.”

Foul sewage details are required by way of condition; informatives are suggested.

- 3.3 **Southern Water:** “The Environment Agency should be consulted and the applicant is advised to consult the EA directly with regard to the use of a private wastewater treatment works or septic tank drainage which disposes of effluent to sub-soil irrigation. The owner of the premises will need to empty and maintain the works or septic tank to ensure it’s long term effectiveness. The Council’s technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.”
- 3.4 **EDF Energy:** no objection
- 3.5 **Upper Medway Internal Drainage Board:** The Board objects on the grounds that the entire site would be surrounded by flood water and in flood conditions access in to and out of Symonds Lane would be impossible. This type of application could put an unnecessary strain on the emergency services. Also, in line with PPS25 there is a risk to life and caravans/mobile homes should not be located in this area.
- 3.6 **Southern Gas Networks:** advice is offered with regard to working practice around gas mains.
- 3.7 **Environment Agency:** The site is situated within Flood Zone 1 which represents a low probability of flooding, therefore, we have no objection to the proposals.

The Local Authority should be aware that the site may become surrounded by flood water during an extreme flood event. We would recommend that the Local Authority liaise with their Emergency Planning Department in order to ascertain whether Emergency Services could access the site should there be a need to undertake a rescue operation.

4 REPRESENTATIONS

- 4.1 Two neighbour letters have been received raising the following objections:
- Harmful impact on the countryside and character of area
 - Not the same circumstances as the adjoining sites allowed on appeal
 - Loss of agricultural land
 - Site developed without planning permission
 - Clarification on disposal of surface water

5 CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site lies in the open countryside, on the northern side of Symonds Lane and just over 1km to the south-west of Yalding Village. The site does not fall within any specific landscape designations; it is in an area with a low probability of flooding. The application site adjoins two other gypsy sites to the west known as Pear View and Pear Paddock.
- 5.1.2 The site has a tarmacadam entrance off Symonds Lane which becomes block paving for approximately 10m and then shingle for the remaining drive to the rear of the site. The site is broadly 'L' shaped with an approximate length of 62m from Symonds Lane to the rear. The site widens at 35m along this drive whereby an area 10m x 12m is lawn with children's play equipment and the remaining area is shingle and hardstanding with 2 touring caravans, a utility building and a timber garden room/leisure building. The site is bounded by a close board fence approximately 1.8m on all boundaries; dense conifer hedging of approximately 4m high aligns the eastern and southern lawn boundaries; there are what appear to be sweet chestnut trees (5m high) running the length behind the fencing on the northern boundary and both groups of and individual poplar trees scattered along the eastern boundary. The western boundary adjoins 'Pear View' (a Coster/Coates site) where there is a mix of willow and ash specimens behind the boundary fence. There are also three low level ornate style lamp posts within the site and one light at the entrance.
- 5.1.3 At the time of the most recent site visit (November 2010) there were two touring caravans on the site, however permission is sought for one tourer and one static caravan. A block plan has been provided which shows the static caravan to be located close to the far end of the site orientated towards Symonds Lane yet set to the side of the access drive. Designated parking is shown behind the static caravan for 2 cars. A space is shown for the tourer to be situated adjacent to the lawn area and eastern boundary, this is in front of the static and adjacent to the existing utility block (to be replaced) to the north. The plan also shows a garden waste enclosure, bin and gas bottle store and electricity generator in the north east corner of the site. Plans show a static caravan of 11m long x 3.5m wide with an overall height of 3.9m to the ridge. A dayroom is shown 8.5m long x 3.5m wide with a pitched roof and overall height of 3.9m to the ridge. This would replace the existing facility on site of a similar footprint.
- 5.1.4 Aside from the adjoining gypsy sites, the next closest residential site is Jubilee and Lees Cottages which are approximately 200m to the west of the site to the east lies Mill Place farmhouse on the southern side of Symonds Lane approximately 260m. A fairly substantial pond lies 180m to the east and a public footpath 190m to the east running north and south and then turning west beyond the rear of the site by 170m. Views of the site are substantially from

within or at the entrance, however there are medium and long range views through hedgerow breaks along the northern side of Symonds Lane to the east of the site at a distance of approximately 150-200m. From the west any caravans that can be glimpsed are those of Pear View/Pear Paddock.

5.2 Site History

- 5.2.1 This is a retrospective application for a gypsy site which has been occupied by the applicant Mr Cash his wife and their 3 children since June 2006. Prior to this the site was occupied by a Mr Draper and there is a long planning/enforcement history which dates back to the year 2000.
- 5.2.2 An enforcement notice was served in 2000 covering the use of this site together with Pear Paddock and Pear View. Three further notices were served in 2002 and 2003. The enforcement notices relevant to this application relate to the use; the driveway and the hardsurfacing at the rear of the site. An appeal was lodged against the enforcement notices, two of which were upheld and allowed a compliance time of 6 months for the site to be returned to its former condition. An interim injunction and full injunction were awarded against the owner at the time, a Mr Draper, and whilst the Council were preparing committal proceedings the site was sold to the current owner Mr Cash. Prior to the site being sold Mr Draper submitted a planning application (MA/03/1756), and this was refused and upheld on appeal. Of significance to the determination of this application is that the Inspector concluded that the development would have a materially harmful affect upon the character and appearance of the countryside; and that the development would unacceptably increase highway dangers on this part of Symonds Lane (Decision Dec 2004 Appendix A).
- 5.2.3 It is also of importance to consider the outcome of the two recent appeals on the Coster & Coates sites. Planning applications were refused in August 2009 and subsequently allowed on appeal for a temporary period of 3 years. The inspector balanced the various components of the two cases and concluded that due to personal circumstances, the lack of alternatives for the occupants and the absence of a DPD that a temporary permission could be justified. The inspector made it clear that he was not in anyway suggesting the sites would be appropriate for permanent permissions as they did detract from the character of the area and countryside, both cumulatively and individually, however he gave substantial weight to unmet need. I have attached the appeal decisions as appendices to this report which are material considerations in the determination of this application (Appendix B).

5.3 Gypsy Status and Need

- 5.3.1 It is accepted that 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 provided adequate gypsy accommodation a Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned to assess the level of need for gypsy accommodation.

- 5.3.2 The GTAA was undertaken by consultants on behalf of the Council and three other local authorities (Ashford, Tonbridge & Malling and Tunbridge-Wells). 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. This equates to a figure of approximately 6.4 pitches per year for the five year period.
- 5.3.3 The GTAA provides further assessment of the need by examining the turnover of pitches on the two public sites. The GTAA concludes on this matter that the extremely low turnover of pitches on the Council sites, which is confirmed by the Council's Gypsy and Caravan Sites Officer, increases the yearly requirement by 2 to 3 pitches, meaning a yearly requirement of 8 to 10. This yearly requirement equates to between 40 and 50 pitches for the whole five year period.
- 5.3.4 To establish the need for the period after April 2011 work is continuing with the gypsy DPD, which will endeavour to allocate sites and the timetable is likely to run parallel with the timetable for the Core Strategy.
- 5.3.5 At the time of writing this report the total number of permanent pitches allowed since April 2006 is 52 pitches and can be broken down as follows:-
- 41 permanent permissions therefore passed the GTAA figure
 - 11 permanent personal permissions

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

- 8 temporary permissions
- 17 temporary personal permissions

- 5.3.6 The Council has permitted 41 permanent pitches since April 2006, in excess of 32 unrestricted permanent gypsy pitches and is above the target given by the GTAA with over months until the end of the assessed period (31 March 2011).
- 5.3.7 If the higher number, due to the low turnover of public sites, (i.e. 40-50 pitches needed) is used to assess need I consider it appropriate to include those permanent personal permissions as whilst they are specific to an individual/family they do provide a permanent solution to their need. Therefore using this assessment the number of permanent permissions is 52.

- 5.3.8 I consider that the Council is currently meeting the general gypsy need identified in the GTAA through the development management process.
- 5.3.9 Planning Inspectors also give weight to the number of unauthorised sites in the Borough. Clearly this site has been unauthorised for a substantial number of years and would have been included in previous figures that the Inspectorate has taken account of. At present there are 29 unauthorised sites in the Borough – excluding the tolerated sites at Plum Bottom, Stockbury. This figure does indicate a level of need, although I do not consider this to be an overriding need.
- 5.3.10 With April 2011 approaching it will become increasingly necessary to give weight to the 2011-2016 period and early indications is that the need figure for this period is greater than the 2006-2011 period.
- 5.3.11 The need situation has moved on since the Coster & Coates appeal decision. However, as mentioned above it will soon be the start of a new assessment period (2011-16).

5.4 **Personal Need**

- 5.4.1 There are two of the applicant's children whom attend the local school in the village, with one other registered to attend on reaching of age. Clearly a settled base does allow them to progress through the education system. There has been no indication that there are any particular special educational needs that can only be met by staying at this school and living on the application site. However, the applicant has stated that there is not an alternative site available to them at this time and the site does provide/has been providing a settled base to enable the children to attend school. There is evidence from Planning Inspector appeal decisions that considerable weight is given to human rights and issues such as education. I consider the fact that the family has remained on site for such a length of time already and that the children are settled in school has to be given weight in the determination of this application.
- 5.4.2 The educational needs together with the lack of alternative accommodation at present and the fact that the family have lived on the site since 2006, are all contributory factors in this application. I consider that the lack of alternatives when taken with the length of time the family have occupied the site, means consideration must be given to a temporary permission to meet the immediate needs of the family.

5.5 **Visual Impact**

- 5.5.1 The site is within the open countryside, although there is no specific policy designation. Circular 1/2006 states that gypsy sites located in the countryside are acceptable in principle. Whilst it is accepted that there is always likely to be some visual impact from gypsy development, it is a question of the level of harm

that is caused. There is an Inspectors decision on this site which already states that the development causes visual harm to the locality and there have been no significant changes to the locality which would alter this view.

5.5.2 The site and caravan would be visible from medium/long distance views along Symonds Lane in the spring/summer months – more so in the winter. The mixed native hedgerow of approximately 2.5m high that runs along Symonds Lane from the application site to the east acts as effective screening until it finishes close to the PRow. At this point there are individual trees and large gaps where the development can be seen across the fields. The length of expanse of close board fencing aligning the eastern side of the driveway is quite a suburban feature in this location – the greatest impact being close range but it is also visible from across the fields from the PRow. Opportunities for enhancing the landscaping are limited due to the extent of hardstanding across the site which is taken to the site boundaries and the surrounding fields not being with the applicants ownership/control.

5.5.3 When approaching the site from the west the development is shielded by Pear View and Pear Paddock sites. From the east the top of the existing utility building and tower on the site can be seen as mentioned previously from the PRow where the hedgerow stops and there are gaps in the vegetation. The development of the site both at close range and distance clearly does cause harm to the character of the countryside in this location, the harm is greater when taken in the context of the adjoining sites. This is the view supported by two different planning inspectors on both this site and the adjoining sites.

5.6 **Residential Amenity**

5.6.1 Objections have been received from residents in Symonds Lane on the grounds of harm to the character of the area, light pollution and insufficient personal circumstances being cited to allow a temporary permission as given on appeal on the adjoining sites. As stated the closed residential property is a distance of approximately 200m away and I do not therefore consider there to be an issue of harm to residential amenity.

5.7 **Highway Safety**

5.7.1 One of the previously stated reasons for refusal on this site in 2006 related to an increase in the risk of highway safety. In the more recent 2009 Planning Inspectors decision on the Pear View and Pear Paddock sites, highway safety was discussed for the same reason. Previously the Highway Authority raised objection to the access onto Symonds Lane – site lines were inadequate, however this was retracted in 2009 at appeal on the adjoining two sites. The concern was lack of visibility and the potential for an increase in collisions. However, in addition to the Highway Authority removing its objection, the Inspector also considered 'the level of risk' to be quite low. The site lines at this

site are 30m to the east and 20m to the west; the average speed limit is 25 - 30pmh. The issues are not dissimilar to the circumstances of the adjoining sites with land outside the applicant's control that would be required to improve sight lines. I have spoken with the Highway Authority who do not wish to raise objection to the application and are satisfied that on a country lane of this width and speed the sight lines, whilst not ideal, will suffice.

5.8 Flooding

5.8.1 The site lies in Flood Zone 1 – an area with a low probability of flooding. Wider areas surrounding this site are at greater risk of flooding and this site together with Pear View and Pear Paddock in effect form an island. The Environment Agency raise no objection on flooding grounds but suggest the Council's Emergency Planning Officer may wish to comment on a strategy in the event of surrounding areas flooding.

5.8.2 In the 2009 Inspectors appeal decision on Pear View and Pear Paddock the Inspector stated 'I consider that the threat to life from river flooding would be insignificant. I therefore agree with the 2007 Inspector that there is no reason to exclude development from the appeal sites themselves.'

5.8.3 From the above comments and taken together with the Environment Agency raising no objection on flooding, there is no objection on flood risk grounds to the application.

5.9 Ecological Considerations

5.9.1 Ecological implications were not a matter for consideration on the previous Inspectors decision on the adjoining sites. The application site is primarily hardstanding whether block paving or shingle and has been so for a substantial amount of time. The lawn area is kept as short grassed garden land. The hedgerows and trees beyond the site boundaries are unaffected and I do not consider this development would affect the connectivity and migratory routes of any existing wildlife in the locality. There are no indicators as per Natural England's standing advice that would require the submission of an ecological survey and from experience on a site as this Natural England would raise no objection on ecology grounds.

5.10 Sustainability

5.10.1 The site is located relatively close to the village centre of Yalding. Yalding contains a number of services and shopping facilities. It is where the applicant's children attend school. There are bus services and a train station. I do not consider the site to be isolated in light of a 1km distance to reach the village centre.

6 CONCLUSION

6.1.1 In light of the above analysis it is apparent that the development does cause harm to the character of the countryside. The harm is exacerbated by the adjoining two gypsy sites. This harm has previously been identified in the aforementioned appeal decisions. However, it is considered that in light of the most recent Inspectors decision on Pear View and Pear Paddock, it would be unreasonable and inconsistent not to allow a temporary personal permission whilst work is completed on the DPD.

RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mr Cash, 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 of the area and appearance of the countryside contrary to policies ENV28 of the Maidstone Borough Wide Local Plan 2000 and PPS7. This identified harm is considered to be outweighed by the personal needs of the applicant with regard to the education of his children and that the lack of alternative sites together with 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 Cash, 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 of protecting the character and appearance of the countryside in accordance with policy ENV28 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 one time;

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

4. 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 amenity, character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and PPS7.

5. Within one month of the date of this decision details of the existing external lighting shall be submitted to the Council for approval of the wattage strength. The approved details shall be carried out as agreed.

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

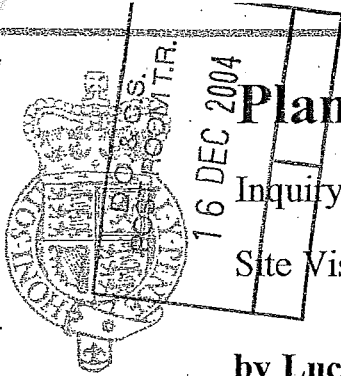
6. Within one month of the date of this decision full details of foul and surface drainage shall be submitted to the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In the interests of proper drainage and in accordance with Policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

Informatives set out below

The applicant is advised that, if they have not already done so, it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent being granted. Failure to do could result in action by Council under the Act as caravan sites cannot operate without a licence.

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.



Planning Appeal Decision

Inquiry held on 25 November 2004

Site Visit held on 25 November 2004

by **Lucy Drake BSc MSc MRTPI**

an Inspector appointed by the First Secretary of State

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Date

15 DEC 2004

Appeal Ref: APP/U2235/A/04/1142318

Land at The Former Pear Orchard, Symonds Lane, Yalding, Kent, ME18 6HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr L Draper against the decision of Maidstone Borough Council.
- The application (Council's ref: MA/03/1756), dated 10 August 2003, was refused by notice dated 22 November 2003.
- The development proposed is the change of use to residential and the stationing of one mobile home for a gypsy.

Summary of Decision: The appeal is dismissed.

Procedural matters

1. At the inquiry an application was made on behalf of Maidstone Borough Council for an award of costs against Mr Draper. This is the subject of a separate Decision.

The main issues

2. The main issues in this case are:
 - (a) Whether the appellant comes within the statutory definition of a gypsy.
 - (b) Whether the development would harm the character and appearance of the area, bearing in mind planning policies for the countryside.
 - (c) Whether the development would increase the number of people exposed to an unacceptable flood risk.
 - (d) Whether the use of the access to Symonds Lane would increase highway dangers.
 - (e) If the development is not in accordance with the development plan or causes any other harm, whether there are material considerations which outweigh these factors, having particular regard to the need for gypsy sites in the area and the appellant's personal and family circumstances.

Planning policy

3. The development plan consists of the Kent Structure Plan 1996 and the Maidstone Borough-Wide Local Plan 2000. The appeal site is within the countryside where the overall aim of development plan policies is to strictly control development. Structure Plan Policy RS1 requires all development in the countryside to be well designed, appropriate to its location and preserve and, as far as possible, enhance the character, amenity and functioning of the countryside, among other matters. Policy H8 indicates that where there is an identified need, the local planning authority will make provision for gypsies in local plans and through development control; provision should be consistent with the plan's other policies. Policy NR5 indicates that residential development will not normally be permitted on land at risk from river flooding unless the risk is satisfactorily alleviated.
4. In the local plan, policy ENV28 seeks to protect the character and appearance of the countryside and says that planning permission will not be given for development which harms the character and appearance of the area or the amenities of the surrounding occupiers. Development will be confined to the listed categories, which includes exceptions indicated by policies elsewhere in the plan. One such policy is H36 which indicates that planning permission for gypsy sites is dependent on 3 criteria being met. These are (1) that the resident has a nomadic way of life and travels for the purpose of making a livelihood (2) that the site should be satisfactorily screened by natural features and (3) that the development will not lead to an undue concentration of such developments which would adversely affect the character or amenity of the countryside or area. Policy ENV50 states that within flood plains or in areas at risk of flooding, new development will not be permitted unless it can be demonstrated that compensating storage can be provided.
5. I have also had regard to government policy especially Circular 1/94 *Gypsy Sites and Planning*, Planning Policy Guidance (PPG) 25 *Development and Flood Risk* and Planning Policy Statement (PPS) 7 *Sustainable Development in Rural Areas*.

Background

6. The appeal site comprises a plot of land, approximately 26m wide and 65m in depth, with a driveway connecting it to Symonds Lane, some 75m to the south. The final few metres of the driveway, where it joins Symonds Lane, is not in the ownership of the appellant but it was not disputed that he had rights of access over it.
7. The site lies immediately to the east of land which was the subject of two appeals in 2001 (APP/U2235/A/01/1056272 and 1056273), which also sought planning permission for residential use by gypsy families. Both of these appeals were dismissed although the sites are still being used for this purpose. This land is referred to as the Coates and Coster sites (the names of the appellants).
8. In September 2000 the Council had served an enforcement notice covering all three sites, and additional land to the east and west which formed the original pear orchard, alleging an unauthorised change of use to a mixed use for the purposes of stationing residential caravans and a tarmac contractor's business. No appeal was submitted and the notice took effect in October 2000.
9. In August 2002 the Council served an enforcement notice in respect of the creation of a hardstanding and roadway around the enlarged access area for both the Coates and Coster

sites and the current appeal site access. No appeal was submitted and the notice took effect in September 2002.

10. In March 2003 a further enforcement notice was served against the creation of the roadway which is now the access drive in this appeal, and in July another enforcement notice against the creation of a hardstanding in the northern part of the appeal site. Appeals against both these notices were dismissed in September 2003 (APP/U2235/C/03/1114611 & 1121540) although the periods for compliance were extended in each case. Both periods have now expired without compliance.
11. The Council has obtained an injunction in connection with the outstanding enforcement notices and the unauthorised change of use of the Coates and Coster sites and the current appeal site.
12. The rear part of the site has been residentially occupied by the appellant and his family since July 2003. At the date of the inquiry it contained a standard single-unit mobile home, a touring caravan, a large wooden 'utility' shed containing a kitchen, dining and living area, a smaller wooden shed containing laundry facilities (washer, tumble dryer, toilet and shower) and two 'Luton top' van bodies used for storage. The family use the utility shed for cooking and eating in and as an additional living room, the two girls sleep in the tourer and Mr and Mrs Draper and their son sleep in the mobile home, which has two bedrooms.
13. The site, including the driveway, is enclosed by dark-stained, close-boarded fencing, less than 2m in height. Although the laying out of the hardstanding and driveway were not formally part of the application, an authorisation of the use would reasonably lead to the expectation that the driveway and hardstanding would remain, although not necessarily in the exact form that I saw.
14. The application was only for the change of use of the land and the stationing of the single mobile home. But at the inquiry Mr Draper made clear that he would need to keep the tourer and utility room, and preferably the toilet in the smaller shed. Separate sleeping accommodation for the girls and boys and a separate toilet are a common feature of gypsy lifestyle, as is some form of utility room. Realistically the impact of development has to be assessed as comprising the scale and approximate form of what I saw on site.

Reasons for the decision

(a) *Whether the appellant comes within the statutory definition of a gypsy.*

15. The appellant was born and brought up on the Council's gypsy site at Water Lane, Kinswood, Maidstone. When he was 17 he married and moved to his father-in-law's gypsy caravan site at Whitstable where he stayed for 11-12 years. He was based at that site, working either on his own or with other family members, tree cutting, landscape gardening and paving. In 1997 the Whitstable site was sold and the family moved to a private woodyard, next to the Council's Water Lane site. They stayed here for about six years, acting as unofficial security, continuing to travel about 6-8 weeks a year in the school summer holidays, but for the rest of the year finding work within the local area and very rarely staying away. This pattern of activity continued after they moved to the appeal site in July 2003. The appellant has never lived in a house.
16. During the summer he travels with his immediate family and a varied group of others to locations mainly in southern England. They pick up work wherever they can, hoping to

make enough to live on and generally staying on unauthorised sites: lay-byes or wherever they can find to stop. The travelling is more of a holiday and to maintain the traditional habits than to make money. The family also attend most of the traditional gypsy fairs in May/June and Sept/October, but just on a social basis, only staying away a night or two.

17. The statutory definition of a gypsy is found in section 24(8) of the Caravan Sites and Control of Development Act 1960, namely persons of a nomadic habit of life, whatever their race or origin. Various court judgements have qualified the way that definition is to be interpreted. I have had particular regard to the approach set out by Auld L J in paragraph 57 of the judgement in *Wrexham County Borough v National Assembly For Wales, Michael Berry and Florence Berry* (Court of Appeal 19 June 2003). The judgement in *R v South Hams District Council, ex p. Gibb* 1995 QB138 CA indicated that the purpose of travelling is a relevant consideration as *nomadic habit of life* involves purposive activities, including work. In my view, the appellant's limited annual travelling and essentially local pattern of work does not amount to a nomadic habit of life sufficient to come within the statutory definition. But there is no clear intention to give up his gypsy way of life and given his background I consider that the appellant has not yet lost his gypsy status. Thus the advice in Circular 1/94 is applicable and there is no conflict with policy H36 criterion 1.

(b) Whether the development would harm the character and appearance of the area, bearing in mind planning policies for the countryside.

18. Setting aside the presence of the unauthorised development on the appeal site and at the Coster and Coates's sites the area has a predominantly rural and undeveloped character. Apart from the group of houses about 250m to the south west and an authorised gypsy site there is very little other built development along the roughly 1km length of Symonds Lane. The area generally is characterised by fields and orchards, high hedges alongside the roads and scattered residential development, including farm buildings.
19. The wide opening in the hedge at the appeal site access, which also serves the Coster and Coates's sites and the remaining part of the pear orchard to the east, allows views of the driveways, fences, caravans and sheds on the three sites and creates the impression of a significant amount of development, seriously at odds with its pre-existing appearance and the character of its surroundings. The straight driveway flanked by close boarded fencing leading up to the main part of the appeal site, within which one can see the upper parts of the pale coloured mobile home and touring caravan and the utility shed appear as incongruous and urbanising features within what was previously an orchard. While the development can only be seen from a short stretch of Symonds Lane, and in the summer months probably only from the site entrance, it is clearly noticeable as a discordant an urbanising element. Additional tree planting might, in time, lessen the visibility of the structures on the main part of the site. But the need to maintain access, and provide adequate visibility from the site entrance (see below) would mean that the site is very unlikely to ever be satisfactorily screened by natural features, the second criterion of Local Plan Policy H36.
20. Even if the Coster and Coates' sites were returned to their pre-existing condition and Mr Draper's development were the only one allowed to remain I consider that the development would have a materially harmful effect upon the character and appearance of Symonds Lane and would be contrary to policies in the Structure Plan and Local Plan which seek to protect the countryside, even where a use may otherwise be permitted.

(c) Whether the development would increase the number of people exposed to an unacceptable flood risk.

21. The appeal site is within the 1-in-100 year flood plain identified by the Environment Agency (EA). This flood plain covers a large area of surrounding countryside, including many small settlements. The EA objected to the applications and gave evidence at the inquiry. Serious flooding in the vicinity of Yalding occurred in 1960, 1963, 1968 and 2000/1. The available evidence indicates that the appeal site did not flood during any of these events, but that the access roads to it were flooded to varying degrees. During the flooding event of October 2000, Symonds Lane was impassable. The video shown at the Inquiry indicated fast flowing water travelling along Symonds Lane close to the houses some 250m to the south west.
22. The appeal site is near to the confluence of 3 tributaries of the river Medway (the Beult, the Teise and the Lesser Teise), which results in a variety of possible causes and types of flood in the area. The EA's undisputed evidence at the Inquiry was that the 1960/63 floods were about a 1-in-70 year event; that 1968 was a 1-in-60 year flood and the flooding around Yalding in late 2000 was a 1-in-70 year event. The EA estimates that a 1-in-100 year flood would result in water about 1m deep in Symonds Lane where it crosses the stream, some 200 metres to the south east. There was agreement between the principal parties that as the appeal site is at a slightly higher level than Symonds Lane that the site itself is unlikely to flood in a 1-in-100 year event, and if did so the water would only be shallow. But the estimated 1-in-100 year flood level is not necessarily the highest waters could reach in an extreme event.
23. PPG 25, paragraph 21 says that in view of the apparently increased frequency and severity of river flooding in recent years, particularly since 1998, the Government is looking for a step change in the responsiveness of the land-use planning system to the issues of flood-risk management as they affect the development process. The Government considers that the objectives of sustainable development require that action through the planning system to manage development and flood risk should be based on the precautionary principle.
24. The PPG sets out a sequential, risk based approach to development and flooding. The Environment Agency considers that the site should be regarded as falling within category 3b) of Table 1 in the PPG. These are high risk areas where the annual probability of flooding from rivers is 1% or greater and which are undeveloped or sparsely developed. The PPG advises that these areas are not suitable for residential and other development unless a particular location is essential. General purpose housing should not normally be permitted and caravan and camping sites should generally not be located in these areas. However, given the slightly elevated nature of the site, the consultants appointed by the appellant consider it falls within category 2: low to medium risk suitable for most development.
25. Both ends of Symonds Lane are at 11.0m AOD, which is between 1.5 and 2.5m lower than the appeal site. The Lees Road and Benover Road at either end flood frequently. Access to the appeal site is only from these lower-lying junctions. The Parish Council representative noted that over the past 5 years, parts of The Lees have flooded more than 20 times. From the appeal site it would be impossible to assess how deep or fast flowing water might be further down Symonds Lane. While the Environment Agency and the Yalding Flood Action Group try to give a minimum of two hours warning of an impending flood, this is not always possible. Individual property owners would have to decide whether to vacate their land without knowing the likely depth, consequences or duration of the flood. Occupiers of caravans have no upper floor to which to move in the event of a flood.

26. Even if the appellant and his family made an initial decision to stay on site during a period of flooding, they may subsequently change their mind or find they have a need to leave the site for a variety of reasons. Assessing the flood from the slightly higher level of the site and its immediate surroundings they might well be tempted to drive along Symonds Lane and come across unexpectedly deep or fast flowing water, thereby endangering themselves and risking the vehicle becoming stranded, blocking the road for others and requiring help from the emergency services. The site is several hundred metres from any dwelling and were it not for the presence of the appellant and his family, and the adjoining unauthorised gypsy sites, there would be no need for the emergency services to come to this central part of the Lane to check on their safety or to undertake a rescue.
27. I therefore consider that residents of the appeal site would be at risk when evacuating their site once flooding was occurring; or in their desire to reach their home if absent from it. In the event of a flood in excess of the predicted '1 in 100 year' level the site itself is likely to be submerged. In my view, these risks cannot be set aside because the appellant asserts a willingness to accept such risks for himself and his family. In the unpredictable events of a flood, the actions of individuals may have unintended consequences for others. Given the few dwellings in this central part Symonds Lane, the appellant's family would potentially place greater demands on, and increase the risks to, members of emergency and other public services in ensuring the safety and well-being of residents, including assisting with evacuation during flood events.
28. The residential occupation of the appeal sites would increase the numbers of people at unacceptable risk from flooding. There would be both direct and indirect consequential risks to them and others, contrary to national objectives expressed in PPG 25. I have taken into account appeal decisions for sites nearby where the flood risk was considered acceptable, but none of these are so directly comparable as to justify me from taking a different view on this site. In any case I place greater weight on the conclusions of my colleague in the appeals on the adjoining sites in 2001.

(d) Whether the use of the access to Symonds Lane would increase highway dangers.

29. Symonds Lane is of single track width for most of its length, including its central stretch where it passes the appeal site. It provides a cut-through between Lees Road and Benover Road, avoiding Yalding village. Although for most of the day it was said to be little used, local residents reported that during the morning and evening rush-hours and at weekends and holiday periods when Yalding becomes congested, and when the main road through the village is flooded, it is much busier. Speed checks undertaken by the Council, from a small sample, showed an average speed for vehicles passing the site, in both directions, of 27mph, which suggest an 85% speed of 30-33mph.
30. The high hedges on either side of the appeal site access significantly restrict views of the access from approaching vehicles, and vice versa. The width of the access is in large part a result of the unauthorised hardstanding and the remaining hedges are not within the ownership of the appellant. Visibility from the central point of the enlarged access was measured by the Council as around 30m to the east and 20m to the west at a set back of 2m. From a point in line with the centre of the appeal site driveway, visibility to the east would be considerably less, although that to the west somewhat greater. From whichever point is chosen, however, the visibility in both directions is well below the government advice contained on p.58 of Places, Streets and Movement which requires 70m in both directions

where there is a known major road speed of 50 kph (31mph) and 40m at a known speed of 40kph (25mph).

31. These recommended distances do not take account of the width of the road. On a narrow road with no verges, as here, there is virtually no room for a passing vehicle to swerve out of the way to avoid an emerging vehicle. Drivers using Symonds Lane would not expect to meet vehicles emerging from the site access and would get next to no warning of them doing so, and vice versa. The removal of more of the hedge, to improve visibility, assuming permission could be obtained from the owner, would make the appeal site far more open to view and harmful to the character and appearance of the area. While vehicular use of the access may not be great, I agree with my colleague in the 2001 appeal that the sightlines available for emerging vehicles are seriously inadequate. I conclude that the authorisation of the development would unacceptably increase highway dangers on this part of Symonds Lane for both the appellant and his family, and other road users.

(e) If the development is not in accordance with the development plan or causes any other harm, whether there are material considerations which outweigh these factors, having particular regard to the need for gypsy sites in the area and the appellant's personal and family circumstances.

32. Having concluded that the development would be contrary to policies in the development plan which seek to protect the character and appearance of the countryside and restrict residential development in areas at risk of flooding, and that the development would have a harmful effect upon the rural character and appearance of this part of Symonds Lane, and unacceptably increase the number of people at risk during times of flood and highway dangers at the site entrance, I nonetheless have to consider where there are other factors which, in this case outweigh the harm caused in these ways.

The need for gypsy sites

33. Circular 1/94 emphasises the importance of adequate gypsy site provision in development plans through appropriate locational and/or criteria based policies. The importance of planning authorities assessing the need for gypsy accommodation in their areas was drawn to the attention of Councils in letters from the then DETR in May 1998 and November 1999. PPG 12 *Development Plans* (paragraph 4.14) refers to Circular 1/94 and states that development plans should make a quantitative assessment of the amount of accommodation required. PPG 3 *Housing* states that assessments of housing need should underpin local plan policies. Assessments should include the needs of specific groups, including travellers. Despite this consistent advice over the past 10 years, the Council has not undertaken any proper assessment of the accommodation needs of gypsies or travellers. At the Inquiry, the Council indicated that a housing needs study, including specific consideration of the needs of gypsies, was to be undertaken jointly with an adjoining borough. Tenders had been invited from consultants and the work was planned to be completed in the first half of 2005.
34. The bi-annual Count figures show that the two Council-run sites in Maidstone Borough have been full to excess of their official capacity for at least the last 3 years. The numbers of caravans on unauthorised sites has fluctuated between 17 and 20 for the last two years, but it is not clear whether these are the same caravans and families appearing at each count. The fact that some planning permissions and appeals have been granted during that period

suggests that they are not, and despite those approvals there is still an unmet need for further sites.

35. Mr Kenrick submitted a list of 19 named families/sites within Maidstone Borough which he was aware of, who were either applying for planning permission or appealing against the refusal of planning permission or seeking a site after an appeal had been dismissed. 14 of these families, despite being on unauthorised sites, had not been included in the January or July 2004 Counts. The appellant's evidence that there are generally no vacancies on, and waiting lists for, pitches on Council owned or managed sites in Kent was not disputed.
36. In the absence of the necessary detailed study, I cannot come to any firm conclusion as to the level of need for sites within Maidstone Borough, but the evidence is indicative of a significant and continuing, if as yet unquantified, need.

Personal circumstances

(i) The family's need for a site and alternative accommodation options

37. The appellant's family consists of himself, his wife, their daughters Clare (18), Leanne (13) and son Levi (8). He had originally bought the appeal site in 2002 as grazing land for his horses, but never used it as such. When he received a letter from the owners of the woodyard in May 2003 saying that they needed the space for their expanding business and were concerned about the health and safety aspects of the family remaining on that site he began to look for an alternative. He had applied for a pitch on the Council's Water Lane site several years before, and as far as he knew he was still on the waiting list, but he would not now want to move on to it as he had fallen out with some of his family living there. Neither would he consider applying to the Council's Stilebridge site which had a history of poor management, violence and bad conditions. He had not applied for any other Council sites. Investigations by the Council suggested that the family's name did not appear on any gypsy site waiting list.
38. He had asked around estate agents and been told that land with planning permission for gypsy use would cost £60-70,000. This figure was unachievable for him. He could perhaps afford £10-15,000, given a bit of time, which seemed to be the going rate for a plot without planning permission. He had not approached the Council to ask about the chances of getting planning permission before moving onto the appeal site. Nor had he approached them about any other site. But after a few weeks of looking around decided to move his family to the appeal site.
39. Mr Draper had been served with an enforcement notice for the laying out of the driveway, in March 2003, and for the hardstanding in July 2003 and was made aware of the Council's objections to those developments before he moved onto the site. On purchasing the site he should have made enquiries as to any outstanding enforcement notices and it would be surprising if his relatives, the Costers and Coates on the adjoining sites, had not told him of their failure to obtain planning permission for their continued occupation, even on a temporary or seasonal basis.
40. The family's move onto this site, after only a few weeks of active search, seems to me to be a case of solving their immediate problem, of being asked to leave the woodyard, but given its planning history, and that of adjoining land they should have been aware that the likelihood that they would be able to stay here permanently was small.

41. The appellant and his family have a clear need for a gypsy site. No member of the family had ever lived in a house and they did not wish to do so. If they had to leave this site they did not know what they would do, but they did not want to try and live 'on the road'.
42. Given their ethnic and cultural background it would be unreasonable to expect them to move into bricks and mortar for any more than a temporary period. I do not under-estimate the difficulties of finding and/or securing a site suitable or authorised for gypsy use. There are a number of other families in the same situation in the area. Even if Mr Draper were to apply for a Council-owned site in Maidstone Borough or other parts of Kent it could be several years before he was offered a pitch. But there is no evidence that he has actively searched for alternative accommodation, apart from the period of a few weeks before he moved onto this site. While Maidstone's Local Plan gypsy policy is not based on a quantitative assessment of need, neither is it so restrictive as to effectively prevent any suitable site being found. The Council has granted planning permission for new sites and others have been granted by planning inspectors on appeal.
43. It may take some time for the family to secure an alternative, authorised site, in a more suitable location but I do not consider that the likelihood of them being able to do so to be so slight as to be unrealistic. I nonetheless have to give the family's lack of choice as to alternatives in the short term some considerable weight.

(ii) Educational needs

44. Clare had completed her education by the time they moved to the site. Leanne had attended school regularly up to then, but they had difficulty in getting her into any local school until January 2004 when she started at Mascalls secondary school. She is reported to have settled in very well and is making good progress. She is currently choosing her option subjects for GCSE and the headteacher would very much support the family's case for remaining at their current address at least until she has completed her education.
45. Levi had not been happy at any of the previous schools he had attended and was known to be a "school refuser". He obtained a place at Laddingford St Mary's C of E Primary School in September 2003 where he was said to have settled well. He was unable to read or write when he joined the school and was placed on the Special Needs Register at School Action Plus. This meant that his needs were considerable and required not just additional support from within the school, such as a highly differentiated curriculum and class assistant help, but also from external agencies. He was said to have made excellent progress over the past year although he still needs a lot of additional support. The headteacher writes that if he were to leave now it would disrupt not just his progress but his motivation and commitment and harm his future educational attainment.
46. If the family were required to leave the site, at short notice and with no immediately identifiable suitable alternative accommodation, this is likely to disrupt the continuity of education for Leanne and Levi. The degree of disruption would depend on whether they would be able to continue to attend their current schools and, if not, the time it might take for them to find places at another school and settle in. Both children's needs are important and I appreciate especially the benefits of Leanne being able to achieve a smooth transition and stability within years 10 and 11 and for Levi to continue to receive the type of support he has been given over the past year in an environment he feels happy.

47. These educational needs weigh in favour of the family being able to stay within reasonable travelling distance of the two schools and add some weight to their continued occupation of the appeal site.

Human rights

48. There is a valid enforcement notice applying to this sites and adjoining parts of the orchard, including the Coates and Coster sites, which came into effect in October 2000 requiring, among other matters, the use of the land for the stationing of residential caravans to cease. The Council has obtained injunctions against the site owners and occupiers but has not pursued proceedings pending the outcome of this appeal. The Council gave no indication of what action it would take, or how quickly, if the appeals were to be dismissed. But I recognise that dismissal of the appeals would be likely to result in the Council pursuing prosecution, or other action for non-compliance with the enforcement notice, which would force the appellant and his family to move from his site. Because of the extant enforcement notice and lack of immediate alternatives, I recognise that dismissal of the appeal is likely to result in the appellant and his family losing their home, quite possibly without any immediately suitable alternative site being available, which would represent a serious interference of their rights under Article 8 of the European Convention on Human Rights - respect for a person's home, private and family life.
49. However, Article 8 is a qualified, not an absolute, right. An interference with an individual's rights may be justified if it is in the public interest. If it is found that the interference is in accordance with the law, has a legitimate aim and there is a pressing social need for it which goes no further than is necessary (i.e. it is proportionate), no violation will occur.
50. In this case a dismissal of the appeal and the return of the site to its pre-existing condition would be in accordance with the law. The legitimate aims pursued would be the protection of the undeveloped, rural character and appearance of the area, the precautionary principle with regard to development in areas prone to flooding and the objectives of planning policy in this respect; and public safety in terms of highway dangers at the site access and the additional risks created by the residential occupation of the site during times of flood. The latter two I consider significant also in terms of the particular and specific risks they pose to the health and safety of the appellant and his family.
51. At the inquiry the option of a temporary planning permission until July 2007 was raised on behalf of the appellants. This would allow time for the Council to have completed their needs assessment for gypsy sites and made some firm proposals, Leanne would have finished her GCSEs and Levi would have completed primary school. But this would extend the family's occupation of the site to four years, including three more winters when the risks of flooding are greatest, and only put off the urgent need for the family to look for an alternative site in a more suitable location which does not have as much harm on the character and appearance of its surroundings or pose such a danger to themselves and others from the highway access and consequences of flooding. I do not consider that the objective of the measure can be achieved by means which are less interfering of the family's rights.
52. In my view, the objections to continued residential use of the site are serious ones and cannot be overcome by granting temporary planning permission or by the imposition of conditions. The public interest can be safeguarded only by dismissal of the appeal. I conclude that dismissal of the appeal is necessary in a democratic society in furtherance of the legitimate aims stated and would be proportionate in the circumstances. I therefore do

not consider that dismissal of the appeal would result in a violation of the family's rights under Article 8 of the Convention.

Conclusions

53. The shortage of suitable and available alternative gypsy accommodation in the locality in the area generally and this family in particular, the consequences for the family were the appeal to be dismissed and the potential disruption to the children's education I consider to be matters of considerable importance. In weighing them against the undoubted harm that would be caused by allowing the appeal value judgements have to be made as to the relative weight to be given to needs and outcomes which pull in opposite directions. However, ultimately, I consider that the degree of harm to the character and appearance of the area and the need to protect both public and private interests (including this of the appellant and his family) from the harm arising from the seriously inadequate road access onto a narrow lane in an area at high risk of flooding should outweigh the public and private benefits of allowing the appeal and granting planning permission, for even a temporary period.
54. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

55. I dismiss the appeal.

L M Drake

INSPECTOR



Appeal Decisions

Hearing held on 12 January 2010

Site visit made on 20 January 2010

by **David Smith** BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State
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Decision date:
9 February 2010

Appeal A - Ref: APP/U2235/A/09/2114473

Pear Paddock, Symonds Lane, Yalding, Kent, ME18 6HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs J Coster against the decision of Maidstone Borough Council.
- The application Ref MA/09/0731, dated 1 May 2009, was refused by notice dated 18 August 2009.
- The development proposed is change of use for caravan site for 2 mobile homes with associated development (storage of 1 touring van, shared utility shed (for washing machines), two timber stables, 2 storage sheds, cesspools, fencing, brick wall, gates and associated hardstanding and access).

Appeal B - Ref: APP/U2235/A/09/2114476

Pear View, Symonds Lane, Yalding, Kent, ME18 6HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs M Coates against the decision of Maidstone Borough Council.
- The application Ref MA/09/0732, dated 1 May 2009, was refused by notice dated 18 August 2009.
- The development proposed is change of use for caravan site for 2 mobile homes with associated development (1 touring van with shared day room, hardstanding, fencing, shed and stables, two cesspools).

Decisions

Appeal A - Ref: APP/U2235/A/09/2114473

1. I allow the appeal, and grant planning permission for change of use for caravan site for 2 mobile homes with associated development (storage of 1 touring van, shared utility shed (for washing machines), two timber stables, 2 storage sheds, cesspools, fencing, brick wall, gates and associated hardstanding and access) at Pear Paddock, Symonds Lane, Yalding, Kent, ME18 6HA in accordance with the terms of the application, Ref MA/09/0731, dated 1 May 2009, and the plans submitted with it, subject to the conditions in the attached schedule.

Appeal B - Ref: APP/U2235/A/09/2114476

2. I allow the appeal, and grant planning permission for change of use for caravan site for 2 mobile homes with associated development (1 touring van with shared day room, hardstanding, fencing, shed and stables, two cesspools) at Pear View, Symonds Lane, Yalding, Kent, ME18 6HA in accordance with the

terms of the application, Ref MA/09/0732, dated 1 May 2009, and the plans submitted with it, subject to the conditions in the attached schedule.

Background

3. The appeal sites adjoin each other on the northern side of Symonds Lane and have a long planning history. Enforcement and Stop Notices were issued in September 2000 and separate planning applications were subsequently made for, in each case, the stationing of a caravan and a utility room for a gypsy family. Both of these were refused and subsequent appeals were dismissed in 2001 (Refs APP/U2235/A/01/1056272 & 1056273). By this time the families had moved onto the sites. Injunction proceedings were issued in 2003.
4. Further planning applications were made in 2005. These were also refused. They were considered at an inquiry in 2007 on the basis of a change of use for residential purposes for the retention of 2 mobile homes and 2 touring caravans (Pear Paddock) and 3 mobile homes and 3 touring caravans (Pear View) together with associated buildings and a new access to Pear Paddock. Both appeals were dismissed (Refs APP/U2235/A/06/2015287 & 2015291). Under the terms of the injunction the sites should have been vacated by the end of September 2007 and the operational development removed by the end of December 2007. An application for committal has been lodged but not heard. This may have occurred during the week after the hearing.
5. Immediately to the east of Pear View is another gypsy site known as Greentops (formerly Pear Orchard). This was also the subject of the Enforcement Notice in 2000. The Council pursued an injunction successfully but the site was sold to another family. Although it has been delayed, legal action is still being progressed pending, I gather, the outcome of these appeals.
6. The residential accommodation at Pear Paddock is towards the rear of the site. It comprises a mobile home occupied by Mr and Mrs Coster and their two younger children Jessie (18) and Joseph (16). The other mobile home is occupied by their elder son Thomas, his wife Lena and their children Tommy (5) and Tia (2). There is also a touring caravan and several timber sheds and stables mainly along the western boundary. The front part of the land is an orchard divided by a drive.
7. Mr and Mrs Coates live at Pear View with their daughter Tracey Wenham who is a single mother with two daughters Maryanne (15) and Lena Marie (10). They share a mobile home, a touring caravan for sleeping and a day room used as a sitting room and kitchen. This pitch is set back from the road and behind it is a mobile home occupied by their son Robert Coates and his wife Kelly and son Sammy (2). There is a small associated shed and also a touring caravan kept at the very rear on the parking area. Closer to Symonds Lane are paddocks and several stables and a metal shed outside the appeal site.
8. The biographies of the senior members of the families are set out at paragraphs 14-19 of the 2001 decision. I shall not repeat them here. Suffice it to say that they come from a gypsy background. The entire Coster family travel each summer for about 12-13 weeks doing landscaping work as well as dealing in horses and attending the traditional fairs. Thomas also works locally (mainly landscape gardening) and Joseph assists him. Mr and Mrs Coates do not travel because of their age and health. Robert Coates does groundwork

and travels away for work. Tracey has a part-time job in a public house but travels with her brother in the school holidays to attend fairs and deal in horses as well as carts, saddles and other accessories.

9. There is no dispute about the gypsy status of the appellants. Based upon the information before me, I agree that they are gypsies as defined at paragraph 15 of Circular 01/2006 *Planning for Gypsy and Traveller Caravan Sites*. Therefore relevant national and local policies regarding gypsies should be applied to the proposed use of the sites.

Other preliminary matters

10. During the hearing it transpired that the residential touring caravan on Pear View described earlier was inadvertently omitted from the application. The Council raised no objection to its inclusion in my consideration. However, local residents and the Parish Council would not be aware of such a change. Indeed, I note that one letter of objection refers specifically to one touring caravan in its heading. To my mind, formally assessing the implications of an additional tourer could be prejudicial to the interests of others.
11. At Pear Paddock I noted a total of only four buildings compared to the five specified in the application. One has apparently been removed recently. Nevertheless, I shall consider the proposal on the basis of the application.
12. On the day of the hearing the surrounding area was covered in snow. I was able to make an accompanied inspection on that day but made a further unaccompanied visit to the locality once it had melted.

Main issues

13. I consider that the main issues in both appeals are:

- The effect of the proposals on the character and appearance of the area;
- The effect of the proposals on highway safety along Symonds Lane;
- Whether there would be a risk to safety from flooding; and
- If any harm arises whether this is outweighed by other material considerations including the general need for gypsy sites, the availability of alternatives for the appellants and their personal circumstances.

Reasons

Character and appearance

14. The appeal sites were formerly part of a large pear orchard. They lie in an area of pleasant countryside with open fields on either side and clearly outside of any defined settlement. There is a cluster of dwellings some distance to the east at Mill Place Farm and other development at the western end of Symonds Lane. However, the lane is otherwise largely undeveloped although there is a longstanding private gypsy site to the east.
15. Compared to the 2007 appeals four less caravans in total are proposed but, as referred to earlier, a further tourer is present at Pear View. In order to address highway issues, a roadside hedge and fence panels along the combined site

frontage and between the two entrances have been removed. In its place a grass verge has been created with a low post and rail fence and planting set back behind it on a small embankment. The "conspicuous gate" mentioned by the last Inspector has been replaced by a modest timber one. Other minor alterations have taken place by removing buildings, re-positioning Mr and Mrs Coates' mobile home and carrying out additional planting. The Council accepted that the visual impact has been improved.

16. As noted above, the adjoining site at Greentops is unauthorised and action is still being pursued. I shall therefore assume that the use will eventually cease. The 2007 decision referred to the removal of unauthorised structures, operational development and the access in order to comply with the outstanding Enforcement Notices. However, the fencing along both the eastern side of Greentops and its boundary with Pear View might remain together with conifer planting.
17. The mobile homes and buildings are clearly evident from Symonds Lane particularly from the west and through the gaps created by field entrances. These views would also be possible in the summer months. Owing to the absence of greenery at the time of my visits I was able to see their upper walls and roofs through the roadside hedge. The perimeter fence at Pear Paddock masks some of the domestic structures, parked vehicles and touring caravans but is, in itself, particularly unattractive due to its length and exposure. It is less easy to pick out the mobile homes at Pear View but they would become more noticeable if the current shielding offered by Greentops came to an end.
18. Although softened to an extent by low-level planting the gates, angled flanking walls and conifers at Pear Paddock are suburban features that are not really 'at home' in this rural setting. The entrances also allow for limited views along the drives and signal the presence of the developments but this criticism could be applied to most potential gypsy sites where direct vehicular access is required. Similarly, I attach limited weight to the consequences of interior lighting. No external lighting at the sites was drawn to my attention and this could be controlled by condition.
19. Both previous Inspectors expressed concern about the possible loss of the central section of hedge. This has now occurred. I have no photographic evidence about its appearance to assist in determining whether their fears have been realised. However, as well as being attractive in its own right, I imagine that its removal has weakened the sense of enclosure to the lane. Having said that, the verge that has been created is of a low-key appearance and there are other breaks in the hedges along Symonds Lane.
20. The above aspects of the developments all contribute towards the urbanisation that has been brought about. Nevertheless, the appeal sites are not covered by any landscape designations and are not seen in wider public views. Circular 01/2006 establishes that rural settings are acceptable in principle where not subject to special planning constraints. I accept this implies that the countryside is bound to be affected if progress is to be made in addressing the under-provision of gypsy sites. Equally, that is not to say they should all be accepted in 'ordinary' countryside regardless of their consequences.

21. It is difficult to see how further indigenous planting could meaningfully reduce the visual impact. In any event, as highlighted in the appeal decision at Rabbits Cross, Chart Sutton in 2008 (Ref APP/U2235/A/08/2063378), Circular 01/2006 warns against deliberately isolating gypsy sites and their occupants from the rest of the community. Nevertheless, Annex C accepts that landscaping can, amongst other things, help to blend sites into their surroundings and maintain visual amenity.
22. At the end of the day, as remarked upon by the 2001 Inspector, the developments appear intrusive as they form a scattered group in an isolated rural location. As I see it, it is because of their sporadic nature and position away from other buildings that they stand out to the extent that they do. So rather than being absorbed into the local scene they detract from it.
23. I therefore conclude that both individually and collectively the residential use of the appeal sites materially harms the character and appearance of the area. As such, there is conflict with Policy ENV28 of the Maidstone Borough-Wide Local Plan. In addition, the developments are contrary to Policy C4 of The South East Plan as they do not protect local landscape distinctiveness.

Highway safety

24. Symonds Lane is a single track country lane. There are separate accesses into Pear Paddock and Pear View. Since the last appeals the arrangements along the road frontage have been changed as noted above. Following measurements taken at the hearing the Highway Authority now raises no objection to the visibility from both accesses across the central area between them. Although it was difficult to discern the edge of the carriageway, visibility of about 2m by 37m can be achieved to the right (west) at Pear Paddock on exit and at Pear View it is some 2m by 20m to the left (east). These would be reduced by foliage on the roadside hedges.
25. In 2007 the dimension given to the west at Pear Paddock was 2m by approximately 24m. The increase that has taken place since then may be explained by the loss of a small section of hedge on adjoining land due, I am told, to a farm vehicle driving off the road. However, for Pear View a figure of 2m by approximately 40m to the east was given in 2007 which is considerably greater. This may be due to the fact that the entrance is quite wide so that when leaving the site drivers could position themselves to gain the clearest view. The same situation exists at Pear Paddock so that the actual visibility is slightly more than that measured conventionally from the 'centre line'.
26. However, the visibility splays rely on areas outside of appellants' control. Those over the recently created 'set-back' alongside the road involve land in the ownership of the other family. The Highway Authority takes a pragmatic approach to this and assumes that it would be in the interests of occupiers of both sites to ensure that vision remains unobstructed in future. There is much to be said for this as a probable outcome. The vision to the east of Pear View is across the existing entrance and bellmouth serving Greentops. Although its use may cease there is nothing to indicate that the action required would involve the erection of a high wall or hedge. Furthermore, there is a field gate to the Council-owned land to the east served from this tarmac apron which

would be likely to remain. In practice, therefore, the prospect of the available splays being obstructed is quite small.

27. Following a mobile speed check undertaken in 2006 it is agreed that the 85th percentile speed along the lane is in the region of 25-30mph (40-48kph). In line with the outcome of the last appeal the Highway Authority is seeking visibility splays of 2m by 70m. On the basis of *Manual for Streets* (MfS) the appellants maintain that the relevant standard is 2m by 43m.
28. MfS provides guidance on sight stopping distances for streets where 85th percentile speeds are up to 60kph as is the case along Symonds Lane. Furthermore, many of its key principles may be applicable to lightly-trafficked lanes in rural areas. This description was used by the last Inspector and is agreed by the Highway Authority except when Symonds Lane is used as a diversion route. However, there is no evidence that this occurs often. Even allowing for the weather conditions, vehicles travelling along the lane during my inspections were few and far between.
29. In these circumstances I consider that MfS offers appropriate guidance in assessing visibility at the site accesses. Nevertheless, when judged against it the visibility is sub-standard although the shortfall is fairly minimal to the right of Pear Paddock.
30. In terms of traffic generation from the appeal sites the Highway Authority suggests that some 24 movements per day in total is likely. In practice, shared trips take place and the number of journeys is fewer when family members are away travelling. The appellants' snapshot survey in 2006 recorded about 14 movements per day. For various reasons the last Inspector was "circumspect" about it and I shall base my assessment somewhere between the two figures. Due to the low usage of Symonds Lane there is nevertheless a significant increase in traffic along it. However, I consider that the proposals are only slightly above the "modest" additional daily vehicle movements referred to by Circular 01/2006.
31. Aside from the matters already mentioned, the last Inspector referred to vehicles towing caravans being slow-moving and they would also be hampered by the restricted width of the lane. This would be a further potential hazard but this is a straight section of road so approaching drivers would recognise well in advance if such an event were taking place. I also expect that this would be infrequent. Moreover, because of the alignment of the lane and the lack of other distractions, I consider that on-coming traffic has a good view of all vehicles about to emerge.
32. The local nature and geometry of the road means that most drivers using it are likely to be familiar with the conditions and will take account of hidden access points and the possibility of meeting an on-coming vehicle. Those exiting the site are, and would be, also acquainted with the situation and thereby exercise the necessary degree of caution. I understand that the sites were first occupied in 2001 and, since then, no accidents have taken place in association with Pear Paddock or Pear View. However, although acting as a pointer to the level of danger, it cannot be assumed that they would not occur in future.
33. This is not a situation where traffic is moving past the appeal sites at high speed and in considerable volumes. In fact, it is quite the reverse and this

reduces the likely frequency and severity of accidents. Having said that, the visibility in one direction at both access points is not ideal. The last Inspector concluded that their continued use would present a "considerable threat to the safety of road users". I consider that this threat has been reduced due to the improvements undertaken and the subsequent publication of MfS also sets a different context for assessing the adequacy of visibility splays. Circular 01/2006 indicates that gypsy sites should not be rejected if the impact on a minor road would not be significant. However, in my view, the situation in these appeals does not quite fall into this category.

34. Rather because of the limited visibility from both sites I find that the proposals result in harm to highway safety along Symonds Lane due to the possibility of collisions. However, my view is that the level of risk is quite low.

Flooding

35. The appeal sites are in Flood Zone 1 as defined by PPS25: *Development and Flood Risk* where the probability of flooding is low. Although caravans and mobile homes are defined as highly vulnerable to flooding in Table D.2 it is confirmed in Table D.3 that they are appropriate development in Zone 1. Consequently I consider that the threat to life from river flooding would be insignificant. I therefore agree with the 2007 Inspector that there is no reason to exclude development from the appeal sites themselves.
36. However, Pear Paddock and Pear View form part of a 'dry island' at the western end of Symonds Lane which is surrounded by land in Flood Zone 3. This has a 1 in 100 or greater annual probability of river flooding in any year. PPS25 refers to safe access and escape routes. However, both this and the guidance at paragraph 4.59 of the associated Practice Guide seem to me to relate to development in flood risk areas where occupiers might need to evacuate because of danger to themselves should they remain. That is not the case here and there is no formal guidance about 'dry islands'. Nonetheless I agree with the last Inspector that "land use planning cannot divorce the implications of development on a particular site from the means of access to it."
37. The most recent significant flooding in the Yalding area was in October 2000. The Environment Agency (EA) estimates that this was a 1 in 60 event. At that time the eastern half of Symonds Lane was under water as was Lees Road at the western end of the lane. However, Mrs Coster was able to take her children to school by car since Lees Road and Gravelly Ways to the south were not seriously affected. The 2001 Inspector suggested that they were "fortunate" to be able to get through safely. However, from the evidence I heard the reality is that the families were not cut off in 2000 because although the lane to the east was impassable there was another option to the west.
38. Detailed modelling has been undertaken by the EA to predict the kind of flood levels to be expected during a 1 in 100 year flood event of the Rivers Medway, Teise and Beult which flow through this area. If the Medway flooded in these circumstances it is estimated that the depth of water at the junction of Symonds Lane and Lees Road would be 1m. In the case of the River Teise 0.5m. Because of the likely depth and velocity of water there would be 'danger for all' according to Table 13.1 of FD2320 (DeFRA).

39. Details were also provided of the extent of flooding in a 1 in 25 year event although without information about the likely depth of water. This shows flooding at the eastern end of Symonds Lane and along Lees Road. To the west problems are likely to be greatest towards Yalding whilst to the south the River Teise runs very close to the road at this point. The EA suggested that an event of this magnitude last took place in January 2003 but there is no evidence that this resulted in the appeal sites becoming inaccessible.
40. However, during significant flood events the roads leading to them would be impassable. The last Inspector highlighted some of the dangers of such a situation including driving off the road and breaking down in the floods thereby blocking it and forcing vehicle occupants to wade through deep and fast flowing water. Furthermore, if residents became stranded then the emergency services would be compelled to act putting other people at risk especially as they would be attending a part of the lane where there are no occupied buildings. Moving to and from the appeal sites in those circumstances could therefore be hazardous especially as occupiers might be 'caught out' by sudden inundation and may not be aware of what lies ahead when driving back home.
41. I appreciate that storms are of different durations but the EA indicated that 24-48 hours would be a typical period for flooding to persist. During that period the families could, of course, just 'sit it out' and they are linked to the EA's flood warning system. The chances of a medical emergency arising are remote. The appellants' indicated that they have had more difficulties during the recent episodes of snow in January 2010 and February 2009. This provides some perspective about the potential risk from flooding.
42. An appeal was allowed for a private gypsy site in a similar 'dry island' situation at Benover Road, Yalding in 2006 (Ref APP/U2235/A/06/2014951) but that decision pre-dated PPS25. The site at Brenchley Fields, Paddock Wood is within Flood Zone 3 but on the outer fringes of the potential flood area. The circumstances in which that appeal (Ref APP/M2270/C/09/2101094) was allowed are therefore not directly comparable to those before me.
43. Planning permission was given recently for two small gypsy sites in 'dry island' locations at Emmett Hill Nursery, Laddingford and land north of Willow End, Cross at Hand. In neither case did the EA object because the predicted depth of flooding on the roads leading to the sites would not be so deep as to be dangerous. In particular, the A229 serving the Cross at Hands site is raised above the likely level of flood water during a 1 in 100 year event thereby ensuring access. Although the EA did not explain its position on these other sites clearly until the hearing I consider that they can be distinguished in terms of risk especially since their level of occupation would be much lower.
44. Essentially the situation in respect of this issue is very much unchanged since the 2007 decision. In 2001 the number of residents was fewer but the expectation was that the appeal sites themselves would be liable to flooding. This is no longer the case as more sophisticated predictive techniques have identified a 'dry island'. The recent works nearby would have no impact on the River Medway and a flood defence scheme for Yalding is not funded and cannot be relied upon. I therefore reach a similar broad conclusion to my predecessor in 2007 to the effect that the residential use of the appeal sites increases the number of people at risk during significant flooding events. This is due to the

consequences arising for them and for others of the sites becoming 'marooned' at times when Symonds Lane is inaccessible.

45. However, in these circumstances, I see no direct conflict with PPS25 as explained earlier. Furthermore, Policy NRM4 of The South East Plan is concerned with sustainable flood risk management but does not deal with the situation that applies here. The proposals would therefore not be at odds with it. Clearly the risk is greater than if the sites were undeveloped. However, from the evidence provided, I consider that the overall risk to safety from flooding is not of a high order.

Other considerations

Need for and provision of sites

46. A Gypsy and Traveller Needs Assessment (GTAA) was produced for Maidstone and three other Kent authorities in 2005/2006. This identified that 64 additional pitches were needed prior to 2011 of which 32 should be in Maidstone. Because the study over-estimated the turnover on public sites this translates into a requirement of 8-10 new pitches a year. Since 2006, 59 pitches have been permitted although 20 of these are temporary permissions. However, according to the Council's database there are 53 unauthorised pitches in the Borough and this figure has not come down markedly in recent years. An explanation for the apparent lack of progress in reducing needs is that some sites were missed before and that there has been in-migration.
47. The partial review of The South East Plan is on-going. Policy H7 indicates that 35 pitches should be provided in Maidstone between 2006 and 2016 but the options for the Borough range between 32 and 48. Although there are no relevant policies in the Local Plan the Council accepted a need for additional sites. Its site allocations development plan document (DPD) is progressing in advance of the finalisation of the regional consideration of pitch numbers and distribution. Consultants are due to report in spring 2010 prior to consultation with the DPD expected to be adopted by mid 2011. However, in 2007 the Council anticipated that the DPD would be adopted towards the end of 2009. There has therefore been some delay.
48. Despite the steps being taken by the Council the sites permitted do not appear to have kept pace with the needs of gypsies and travellers. The level of need is persistent and the scale of the task is considerable. The DPD should lead to an improvement in the situation although that is still a little way off. The last Inspector found there to be substantial unmet need even though at that stage it was unquantified. The position is essentially unchanged and the appeal sites would go some way towards meeting it. In the light of these factors I give significant weight to the general need for gypsy sites.

Available alternatives

49. The public sites in the Borough at Ulcombe and Stilebridge are full and, as previously mentioned, turnover is not fast. In any event, there is a feud between the families on the appeal site and those on the existing public sites that would prevent occupation.

50. The Costers and the Coates are of limited means. Consequently they would be seeking public provision as they are unable to afford to buy another site themselves. The expansion of Ulcombe and Stilebridge is mooted but is not straightforward. It has not been ruled out completely and is to be progressed through the DPD. At this stage it is not clear whether any alternative public sites will be put forward.
51. Both families are registered as homeless but the Council have no caravan sites to offer them. Indeed, the Council accepts that there are currently no alternative sites. I give this matter significant weight.
52. As the legal action against the occupiers is being pursued there is a possibility that they would have to leave the appeal sites. If that were to happen there seems to be no alternative to a roadside existence. Apart from the hardship and uncertainty that would result to the families, Circular 01/2006 indicates that a settled base may reduce possible environmental damage caused by unauthorised encampment. I add to that the potential cost to the authorities of having to move them on. More pertinently in this case it is reasonable to assume that the Costers and the Coates would seek to remain in the vicinity which might put them at greater risk from flooding than currently.

Personal circumstances

53. The appeal decision of 2007 sets out the personal, medical and educational position of family members at paragraphs 49-54. Three years have gone by since then but I take account of those underlying details particularly in relation to health matters.
54. In addition, further evidence has been put to me. Mr and Mrs Coster continue to have back pain of varying degrees and Mr Coster has depression. Mr and Mrs Coates are suffering from stress due to the lack of planning permission for their mobile homes. Mr Coates has other health issues but there is more concern about Mrs Coates at the moment. She has been having hospital tests and counselling and attends the doctor regularly. The situation was described as "serious". The other family members are well.
55. Maryanne Wenham is at Mascalls School and due to take her GCSEs in the summer of 2010. After that, she hopes to go on to Hadlow College. It is quite rare, in my experience, for gypsy children to take public examinations and to contemplate moving onto further education. Lena-Marie is at Laddingford Primary School. In November 2008 the Headteacher commented that although she finds learning difficult progress is being made and her self-esteem is increasing. As I understand it, she is due to transfer to secondary school in 2010. Young Tommy Coster has just started at Laddingford and it is hoped that the other children will follow him there.
56. The benefits of a settled base for gypsy families in order that they can access health care and any children can attend school regularly are well known and are part of the consideration of sustainability in Circular 01/2006. Apart from those general advantages I place particular weight on the need of Mrs Coates for a caravan site rather than being forced to adopt an itinerant existence. Furthermore, the stage that both Maryanne and Lena-Marie Wenham have reached in their education is critical and I am concerned about the implications if they were forced to leave Pear View at this juncture.

57. Private applications should not be refused solely because the applicant has no local connections. However, in this case, all the senior members of the family were born in Kent and their personal histories indicate that they have lived or stayed in the county for most of their lives. They feel that this area is where they have their roots. Furthermore, although the occupation of the appeal sites is unauthorised being in one place has assisted Robert Coates in sourcing work and Tracey Wenham in finding a job.
58. Taken together, I do not describe the collective personal circumstances as significant in planning terms but nevertheless they are of some weight in favour of the appeals.

Final balancing

59. This is the third time that an Inspector has had to consider appeals in respect of Pear Paddock and Pear View. Apart from anything else, the national policy background has changed significantly since the 2001 decisions. However, Circular 01/2006 had been introduced by the time of the 2007 decisions. Nevertheless, the proposed uses before me differ from those before that Inspector in a number of respects.
60. Firstly, the number of caravans proposed has been reduced and other minor changes made to the layout of the sites. In addition, the visibility at the access points has been improved and MfS has been published. The need for gypsy sites in Maidstone remains substantial but there is now a greater understanding of the level of that need. Finally, the personal circumstances of the families have 'moved on' due to the passage of time. Therefore, whilst on the face of it, the proposals are similar they are not identical. I have also reached my own views on the main planning objections raised by the Council. It follows that the balance that I have to perform is not the same as that carried out in 2007.
61. I find that the developments both on their own and in combination with the other site cause harm to the character and appearance of the area and are contrary to relevant development plan policies. Furthermore, there is harm to highway safety along Symonds Lane and the number of people at risk during significant flooding events is increased compared to the situation before the sites were occupied. However, in both cases, the level of risk is low and, in this way, I differ from the previous Inspector.
62. Set against the harm identified is the general need for gypsy sites in Maidstone as well as the wider need for sites in the county and nationally. There are no alternative sites for the appellants at present. Whilst matters have not progressed as quickly as expected at the last appeal positive steps are now being made to provide for sites through the DPD. The personal circumstances of the occupiers also weigh in support and especially the health needs of Mrs Coates and the education prospects of her grandchildren.
63. One of the objectives of Circular 01/2006 is to avoid gypsies becoming homeless through eviction from unauthorised sites without an alternative to move to. Dismissal of the appeal would, in all probability, eventually require those occupying them to vacate the sites. Although occupied without planning permission and in breach of an Enforcement Notice and an injunction they have to be regarded as their homes. I therefore recognise that dismissing the appeals would represent an interference with the home and family life of the

appellants. The strength of that interference is lessened by the fact that the uses have intensified since the appeal decisions in 2001 went against them.

64. In the final analysis, I consider that the totality of harm is not outweighed by the other material considerations that favour the developments. Therefore a permanent permission is not warranted.
65. Nevertheless, it was agreed that the general conditions and circumstances relating to the consideration of temporary permissions are met as set out in paragraphs 45 and 46 of Circular 01/2006. In such circumstances, substantial weight should be given to the unmet need. The appellants suggested a period of between three and five years.
66. If permission were given for a temporary period then the visual harm would be accepted for a short time span rather than indefinitely. This reduces the adverse physical consequences for the locality. Of course, during that time there would be highway safety and flooding risks to the occupiers and others. The 2007 Inspector referred to these as serious objections that cannot be ignored. I agree that there may be certain site specific matters that might prevent a temporary permission because of their severity. However, in the light of the changes made and the evidence before me, I consider that the level of danger at the appeal sites is not high.
67. Once the DPD is completed which is due to be in 2011 it is likely that the planning circumstances would change. In the meantime, the families would enjoy a stable existence with access to health services and education and would not have to keep moving on with all the disadvantages that brings. I therefore consider in the short term that the totality of harm would be outweighed. I appreciate that this outcome is different from that in 2007 but it arises primarily because I consider the harm in relation to highway safety and flooding is not so significant that granting permission for a short period of time should be prevented.
68. I am also conscious that it might be seen as surprising to grant even a temporary permission when the public authorities have opposed the residential occupation of these sites for the best part of ten years. I do not in any way condone the fact that the uses commenced without planning permission and have continued in defiance of various actions. Gypsies and travellers have the same responsibilities within the planning system as others. However, these families need a home and there are no lawful caravan sites available for them to move to. Furthermore, despite the work undertaken by the Council there remains a high level of need in the Borough.
69. Therefore having made my own assessment of the various components of these cases I judge that it makes sense for the families to remain where they are until the plan-making process is complete and alternative gypsy sites identified. A similar approach may not be justified when considering other long-standing and unauthorised gypsy sites but it is the view that I have reached here. Furthermore, these decisions should not be regarded as a precedent for the determination of any future applications for full permission for use of the land as a caravan site at either Pear Paddock or Pear View. In view of the anticipated date of adoption of the DPD and the uncertainty about

the delivery of public sites thereafter I consider that three years is a realistic temporary period. I intend to permit the developments on this basis.

70. I therefore find that a temporary planning permission for a period of three years is appropriate. The protection of the public interest cannot be achieved by means which are less interfering of the appellants' rights. They are proportionate and necessary in the circumstances and hence would not result in a violation of their rights under Article 8 of the European Convention on Human Rights.
71. Furthermore, in reaching my decision I have taken full account of my duties under the Race Relations Act 1976 as evidenced by, amongst other things, the references made to Circular 01/2006 which seeks to address the disadvantages experienced by gypsies and travellers.
72. It is claimed that the human rights of local residents are infringed as they are entitled to the peaceful rural existence that they enjoy. However, I was presented with no evidence to indicate that the activities connected with the appeal sites are disruptive. I therefore consider that allowing the appeals would not interfere with the home and family life of people in Symonds Lane or Lees Road under Article 8 of the European Convention on Human Rights. In addition, that this would not interfere with the peaceful enjoyment of their properties in compliance with the requirements of Article 1 of the First Protocol.

Conditions

73. I shall consider the conditions suggested by the Council having regard to the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*.
74. As indicated above, I shall restrict the permission to three years. Because the justification for my decision stems to some extent from the personal circumstances of those living at the sites; I shall also impose a condition confining occupation to them. As they are gypsies a general limit on occupation is superfluous. To limit the visual impact and to control the use of the sites, the number of caravans should be limited to that applied for, the size of vehicles restricted and commercial uses precluded. For similar reasons, details of any external lighting should be agreed. Given the duration of the permission it is not reasonable to require that further planting be done.

Conclusion

75. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

APPEAL A – APP/U2235/A/09/2114473

- 1) The use hereby permitted shall be carried on only by Mr and Mrs Tom Coster (senior) and Mr and Mrs Thomas Coster and their resident dependants, and shall be for a limited 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 those named in condition 1) above, or at the end of three years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or erected on it or works undertaken to it in connection with the use shall be removed and the land restored to its former condition in accordance with a scheme of work including an implementation period previously submitted to and approved in writing by the local planning authority.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) No commercial activities shall take place on the site, including the storage of materials.
- 5) No more than three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than two shall be static caravans or mobile homes), shall be stationed on the site at any time.
- 6) Details of any external lighting shall be submitted to and approved by the local planning authority in writing prior to installation. The works shall be carried out in accordance with the approved details.

APPEAL B – APP/U2235/A/09/2114476

- 1) The use hereby permitted shall be carried on only by Mr and Mrs John Coates, Mr and Mrs Robert Coates and Mrs Tracey Wenham and their resident dependants, and shall be for a limited 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 those named in condition 1) above, or at the end of three years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or erected on it or works undertaken to it in connection with the use shall be removed and the land restored to its former condition in accordance with a scheme of work including an implementation period previously submitted to and approved in writing by the local planning authority.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

- 4) No commercial activities shall take place on the site, including the storage of materials.
- 5) No more than three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than two shall be static caravans or mobile homes), shall be stationed on the site at any time.
- 6) Details of any external lighting shall be submitted to and approved by the local planning authority in writing prior to installation. The works shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Mrs A Heine Heine Planning Consultancy

Mrs J Coster

Mrs T Wenham

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Hockney Principal Planning Officer, Maidstone Borough Council

Mr M Blenkarn Consultant to Environment Agency

Mr M Heath Transportation and Development Control Engineer, Kent Highway Services

Ms L Rowlands Transportation and Development Control Engineer, Kent Highway Services

DOCUMENTS

- 1 Policy NRM4 of The South East Plan
- 2 Letters of 22 July and 23 July 2009 from the Environment Agency
- 3 Plan showing extent of Flood Zone 3
- 4 Plan showing 1 in 25 year flood event
- 5 Table 13.1 of FD2320 (DeFRA)
- 6 Location plan and flood zones – land north of Willow End, Maidstone Road, Staplehurst
- 7 Location plan and flood zones – Emmett Hill Nursery, Emmett Hill Lane, Laddingford
- 8 Plan of Borough from Maidstone Borough-Wide Local Plan

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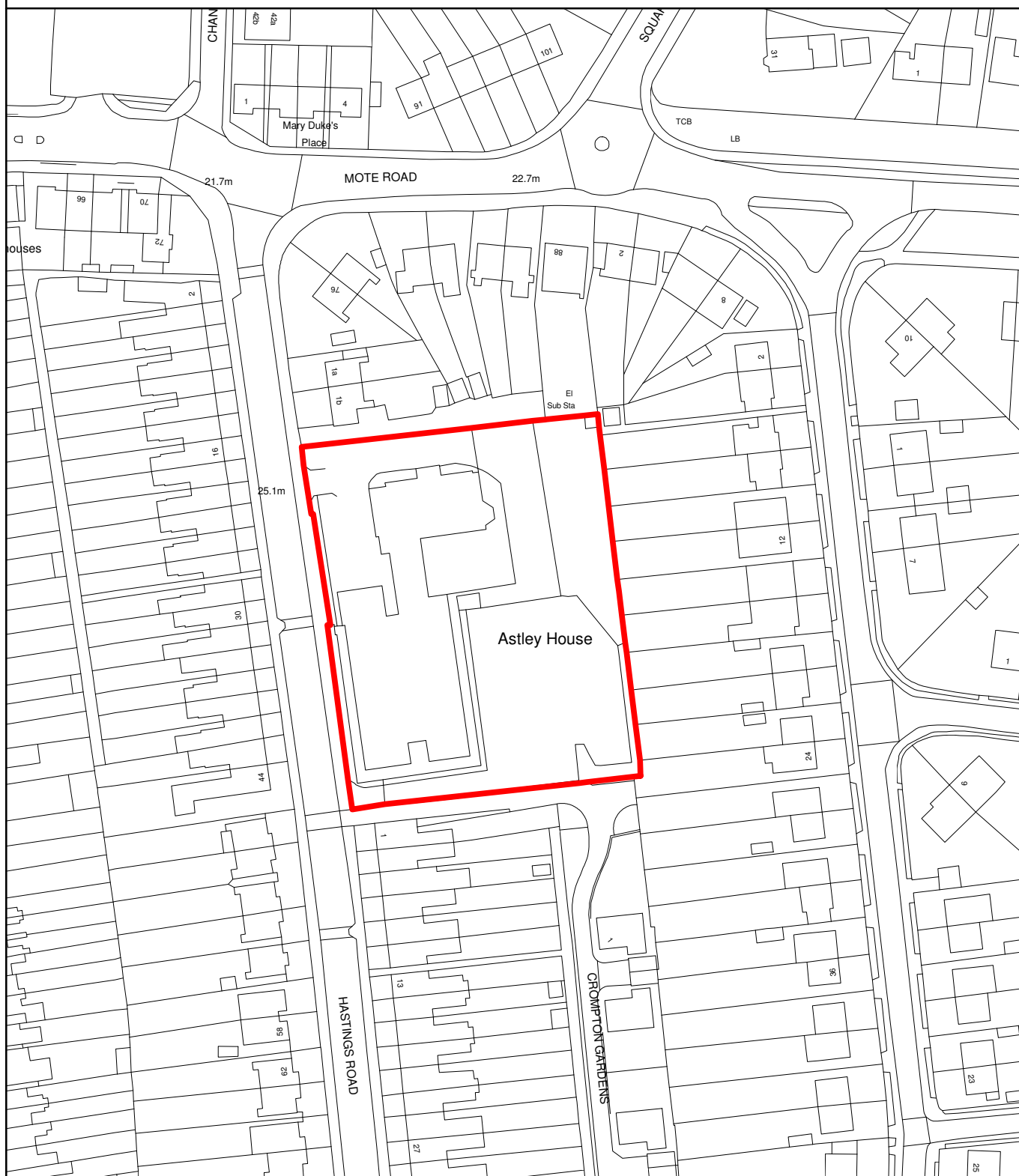
Agenda Item 16

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0594

GRID REF: TQ7655

**KENT MUSIC SCHOOL, ASTLEY HOUSE,
HASTINGS ROAD, MAIDSTONE.**



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/0594 Date: 9 April 2010 Received: 12 April 2010

APPLICANT: Kent Music

LOCATION: KENT MUSIC SCHOOL, ASTLEY HOUSE, HASTINGS ROAD,
MAIDSTONE, KENT, ME15 7SG

PARISH: Maidstone

PROPOSAL: An Outline application for residential development with access to be considered at this stage and all other matters reserved for future consideration in accordance with plans DHA/7430/04; DHA/7430/01, planning statement, desktop contamination report, transport statement, design and access statement, and arboricultural report dated 8 April 2010 and draft S106 agreement received on 29 September 2010, and email received on 9 November 2010.

AGENDA DATE: 25th November 2010

CASE OFFICER: Chris Hawkins

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

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

1 POLICIES

Maidstone Borough-Wide Local Plan 2000: CF1, CF3, T13, ENV6
South East Plan 2009: CC4, NRM11, H1, H3, H4, H5, T4, NRM1, BE1, BE6, AOSR7
Government Policy: PPS1, PPS3, PPS5, PPS9, PPG13

2 HISTORY

MA/99/1420 Outline application for a residential redevelopment following demolition of existing buildings with all matters reserved for future consideration. Approved.

MA/99/0857 Change of use from local government offices (in use by Kent County Council) to educational use by Kent Music School. Approved.

2.0.1 Planning permission has previously been agreed on this site for residential development in 1999 (reference MA/99/1420 – previous Committee report

appended to this report). Whilst within this period the Development Plan has changed, there have been no significant alterations to the site during this period.

2.0.2 I note however that within the previous report it was stated that:

'With regard to the existing building on the site, this building is not listed and it is considered that it does not hold any significant architectural and/or historic interest or merit to justify its retention. Therefore, the demolition of the existing building on the site is considered to be acceptable in principle.'

3 CONSULTATIONS

3.1 **KCC (Mouchel)** were consulted (on 20 April 2010) and have requested that the following contributions be made: -

- £379.65 for adult social services;
- £1440 for libraries;
- £7968.75 for youth services.

This request is fully considered within the main body of the report.

3.2 **The Primary Care Trust** were consulted (on 20 April 2010) and have raised no objections to the proposal subject to the receipt of contributions totalling £120 per occupant per year (for a period of five years). These contributions are sought to ensure that the strain placed upon the existing medical facilities within the Kings Street surgery be fully addressed.

3.3 **The Environment Agency** were consulted (on 20 April 2010) and raised no objections to the proposal.

3.4 **Kent Highways Services** were consulted (on 20 April 2010) and raises no objections to this proposal subject to conditions and informatives addressing the following matters:

- Site parking for personnel/operatives during construction;
- Prevention of the deposit of mud onto the highway;
- Necessary draining of the site;
- Suitable land to be given over for parking provision;
- Cycle parking to be provided; Any entrance gates to be set back from the highway;
- The access shall be completed to the satisfaction of Kent Highway Services;
- Suitable pedestrian visibility splays to be provided.

3.5 **MBC Landscape Officer** was consulted (on 20 April 2010) and recommends that the application be approved subject to conditions addressing the following matter:

- 'No trees as highlighted within the submitted arboricultural report are felled.'

3.6 **MBC Conservation Officer** was not consulted on this application, however following the publication of PPS5: Planning for the Historic Environment, made the following comments: -

'The building known as Astley House – currently used by Kent Music School – appears to be a Regency building of good quality design. Indicated on the 1876 Ordnance Survey map as "The Parsonage", Astley House has since retained the same footprint in its core as well as a significant number of heritage features to its exterior such as its porch and windows. It is likely that the building also retains significant interior features and layout. Due to its age and character, my professional opinion is that it could be a candidate for statutory listing.

Astley House has been identified as a building of interest as described in the companion document to PPS5, the Historic Environment Planning Practice Guide:

Paragraph 83: Some non-designated assets, such as buildings of good local character or sites of archaeological interest, are of heritage significance but not at a level that would pass the threshold for national designation. Such assets can, singularly and collectively, make an important, positive contribution to the environment. The desirability of conserving them and the contribution their setting may make to their significance is a material consideration....

Considering its heritage significance and potential for designation, we would object strongly to the demolition of the building as well as features of its historic setting such as the trees to the eastern boundary and any remnants of the former boundary to Mote Park, which may include ragstone walling and gate posts.'

3.7 **Maidstone Borough Council Parks and Open Space Officer** was consulted (on 20 April 2010) and raised no objections to the proposal subject to a contribution of £1575 per dwelling being provided to ensure that the additional strain upon the parks and open space within the area generated by this proposal is adequately addressed.

3.8 **Maidstone Borough Council Environmental Health Officer** was consulted (on 20 April 2010) and raised no objection to this proposal subject to the imposition of a suitable land contamination condition.

4 **REPRESENTATIONS**

4.1 **Councillor English** has requested that the application be brought before Members on the basis that this is an important site, and the development gives rise to highways concerns that require full consideration by Members.

4.2 **Neighbouring occupiers** were notified and 52 letters of objection have been received. The concerns raised within these letters are summarised below: -

- The loss of the existing music school would be to the detriment of the town of Maidstone;
- The proposal would impact upon the parking provision within Hastings Road;
- The proposal would generate more traffic than the existing use;
- The layout is not in accordance with the Kent Standards;
- It is a unique venue within the area;
- The loss of the concert hall would be to the detriment of the area;
- The site is already in a sustainable site – to move it would prove otherwise;
- Large ensembles that play there might not find an alternative venue;
- KCC should assist with funding rather than the music school move;
- The loss of the school would damage the image of Maidstone;
- The proposal would result in a loss of light to neighbouring occupiers;
- It would create overlooking to neighbouring properties;
- The loss of the trees would be to the detriment of the character of the area, and to biodiversity;
- The proposal would negatively impact upon the character of the road;
- There would be an increase in noise and disturbance;
- The loss of the existing building would be to the detriment of the character of the area;
- There is insufficient infrastructure in place to accommodate additional dwellings;
- The local youth will lose out the most should the facility be lost;
- Maidstone is already blighted by poor quality housing developments;
- A further move would be disruptive to the existing musicians who train/study at the school;
- The development is too dense;
- There would be a loss of wildlife from the site.

4.3 **KCC Heritage Group** were not consulted, but made the following representations:

'The original part of Astley House appears to date to the late 18th or early 19th centuries. The property is illustrated on early Ordnance Survey maps, labelled as 'The Parsonage' in 1849 and surrounded by formal gardens containing a network of pathways. A structure is also shown on the site in the OS field drawing of 1797, but it is unclear whether this is the same building. Although

the property has been extended at the rear in more recent times, the original house appears to remain largely intact.

The illustrative site layout plan and design and access statement accompanying this application indicate that the proposed development involves the demolition of the existing buildings on site. It would be preferable for a specialist historic building assessment to be undertaken prior to determination of this application so that an informed decision can be reached about the value of Astley House as a heritage asset. Astley House appears to be of local heritage interest and consideration should be given to preserving the historic house and incorporating it into any future development proposals.'

5 CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site lies within the urban area of Maidstone. It is located upon the eastern side of Hastings Road, and currently houses the Kent Music School (Astley House). I consider it to be located within a sustainable location, close to the centre of the Maidstone, and within walking distance of the bus terminus. Mote Park is located to the east of the site, again within walking distance. A bus service also runs along Hastings Road with a frequent service being provided throughout the day.
- 5.1.2 The site frontage is approximately 80metres and currently forms two distinct elements. The northern end of the site being more open, with an area of car parking, and the southern end, provided with a brick wall (with landscaping behind) of approximately 1.6metres in height.
- 5.1.3 Opposite the application site are terraced Victorian properties. These properties are attractive, and in many instances relatively ornate. Many of these have hard surfaces that have replaced gardens, to provide off street parking.
- 5.1.4 There are street trees that line the western side of Hastings Road at this point.
- 5.1.5 To the rear (east) of the application site are two storey residential properties within Greenside. These properties have substantial gardens of approximately 25metres in depth. The boundary treatment to the rear is a mixture of close boarded fencing and chain-link fencing, with a number of trees and shrubs growing along or close to the boundary. Many of these trees are significant in height, rising to over 10metres.
- 5.1.6 The existing school contains a variety of building types, including a large two storey Regency property, which retains many of its original features (although some of its original windows have been removed). The Regency element forms

approximately half of the built form on the site at present. This property has effectively a double frontage, which faces northwards (towards the side elevation of an existing property) and eastwards, towards what would have formally been Mote Park, but now consists of the rear of the dwellings within Greenside.

- 5.1.7 To the south of the main property is a single storey flat roof element which links to a two storey pitched roof concert hall. This is a white painted building, with a tile roof.
- 5.1.8 The site contains a large area for car parking to the rear, which is set out within a relatively informal manner. There are also two garages located within the rear of the site, although it is not clear what these are currently used for. A parking area is also located to the front of the building, adjacent to the access.
- 5.1.9 Currently, vehicle access to the property is gained through the northern end of the site, off Hastings Road, with the exit point at the southern end of the site (again on to Hastings Road).
- 5.1.10 There are a number of trees to the rear of the application site, many of which are of a substantial size. An arboricultural report has been completed and submitted with this application, which identify the species and quality of these trees (this is analysed later in this report).

5.2 **Proposal**

- 5.2.1 This application is for outline planning permission with access the only matter for consideration at this point. The proposal would see the demolition of all of the existing building on site, with the erection of residential properties in its place.
- 5.2.2 Illustrative plans have been submitted that demonstrate that 25 dwellings could be accommodated within the site, although no details of property size have been submitted. These are shown as being all dwellings, with no flats illustrated. This would represent a density of approximately 48 dwellings per hectare. Each property is shown as having at least one parking space - the illustrative plans show that 1.2spaces per dwelling provided - and *all* dwellings are shown as having a private garden. A small play area is also shown on the illustrative plans, to be provided within the application site.
- 5.2.3 The access point is shown as being at the northern end of the Hastings Road frontage, which is the current point of access for the Music School. This is shown as having a width of 4.5metres with a footpath provided on either side.
- 5.2.4 Some of the trees within the application site are being retained, whilst some of the smaller trees, or those of lesser quality are proposed to be removed. The majority however, are located around the boundary of the application site -

predominantly the east, south and west boundaries, and as such the majority can be retained. An arboricultural survey has been submitted with this application that sets out the precise siting of these trees. It also identifies that five trees are required to be removed as they are unsafe at present.

5.2.5 The applicant has submitted a draft unilateral undertaking which refers to the provision of a minimum of 40% affordable housing, and the payment of the contributions requested. I have requested that this legal agreement be amended to include a clause that requires the applicant to ensure that they exhaustively assess suitable sites within the Borough of Maidstone, to ensure that all reasonable attempts are made to stay within the locality.

5.3 Principle of Development

5.3.1 The applicants (Kent Music School) have submitted this planning application as they state that they are no longer able to afford to operate from this particular building. The building needs significant investment for continuing maintenance, and upgrading. The applicant has informed us that they are unable to meet the costs of these works. In addition, the building is not considered as suitable for the performance of music (in particular within the older parts of the property) due to the acoustics of the individual rooms. As such, the proposal would see the loss of a community facility on site and as such, policy CF3 of the Local Plan is relevant. This policy states that proposals that would lead to a significant loss of community facilities will not be permitted unless a replacement facility acceptable to the Borough Council is provided. As such, the Authority needs to be satisfied that the applicant would provide alternative sites/an alternative site for their operation to continue. Significant negotiations have taken place with the applicant in order to ensure that this occurs, however, there is some difficulty in the fact that they are unable to secure new premises until they have the financial security of obtaining outline planning permission. As such, I consider it appropriate to require the legal agreement that forms part of the planning application be amended to include a clause that states that the applicants are required demonstrate *best endeavours* to stay within a 15km radius of the application site, and relocate within the Borough of Maidstone. I have sought legal advice on the necessity for the applicants to demonstrate 'best endeavours,' and they consider that this would place the onus onto the applicant to demonstrate clearly that all available options have been examined within the Borough. This is the strongest possible control that we are able to impose upon the applicants that would meet the requirements of Regulation 122 of the Act.

5.3.2 I have discussed this with the applicants, and they are content with this approach, as they wish to stay within the town. They state that the majority of their staff and those that use the facilities live within the Borough, and to move from the town would not make logistical sense.

- 5.3.3 I am therefore satisfied that should the legal agreement ensure that the applicants are required to look at all available premises within a 15km radius within the Borough in the first instance, there would be sufficient protection to ensure that the existing community facility would be retained within the Borough, and as such, it would remain available for use for local residents.
- 5.3.4 It should be noted that the Kent Music School would be able to move from the existing premises at any point, and look to relocate. This would clearly not require the benefit of planning permission. However, by submitting this speculative, outline planning permission, it provides this Authority greater control over their long term retention within the town.
- 5.3.5 The proposal, in outline form, would see the redevelopment of previously developed land for residential purposes, and would accord with PPS3. Whilst the South East Plan (2009) has been 're-instated' with a policy that requires a minimum of 40 dwellings per hectare, I consider it a material consideration that PPS3 has removed the density requirement, and also that the SEP is likely to be revoked once more, within the near future. I therefore give this little weight.
- 5.3.6 As can be seen from the consultations section, the Borough Council's Conservation Officer has raised an objection to this proposal, on the basis of the loss of a heritage asset. Astley House is not a listed building, but has been identified as being of local importance (I would, however, draw Members attention to the quote given above from the previous planning application, approved at Committee). Astley House is a Regency building which retains some original external features, and is shown upon historic maps as having bounded the historic Mote Park (shown as the Parsonage). I concur with the views of the Conservation Officer that this building is of some merit; however, in determining this application, a number of considerations need to be carefully balanced. Whilst of a certain age, I do not consider that this building is a particularly rare example of its type – indeed it was not identified as being of local importance when the previous locally listed buildings list was drawn up, nor of national importance, as it is not listed. I do not believe that from the public domain, it would not be clear that this was a particularly high quality building of its age, as its finest elevation is that which currently faces the car park to the rear (this contains what appear to be the original bay windows). In addition, the building has been significantly extended, with many of these extensions somewhat unsympathetic. I am of the opinion that this somewhat 'devalues' the building. The most historic part of the house effectively sits 'side on' to the highway, with the historical entrance (now unused) side on to an existing dwelling. The elevation fronting on to the highway is less ornate, and provided with what appears to be a service door, with no detailed surround. It also appears that the ground floor windows within this elevation have been replaced.

- 5.3.7 I am also of the opinion that the setting of this building has been significantly compromised, by virtue of the built form that surrounds it. The historic front access faces on to the side of an early/mid 20th Century dwelling house and its garden, with the tarmac access road between. The gap between the properties is approximately 14metres at this point. It is likely that this property originally fronted on to Mote Road, with a substantial open space to the front. Likewise what now appears as the rear elevation would have also been a primary elevation, with the large windows facing over the historic Mote Park. This portion of the historic park has now been built upon, with two storey properties, and the associated paraphernalia. The views to and from this building have therefore been eroded over a period of time, which has significantly altered the setting of this property.
- 5.3.8 An assessment therefore has to be made as to whether the loss of this non-designated heritage asset would outweigh the benefits of seeing this site developed for housing. It should be noted that a non-designated heritage asset can be demolished without any prior approval from the Local Planning Authority as it has no statutory protection, and its merit can only be considered should a planning application be submitted. This is not to suggest that we give such heritage assets no weight when determining planning applications, but we must give this material consideration proportionate weight. Because this building has been significantly altered, its setting has been severely compromised, and due to the fact that there are numerous buildings of this age and quality within the locality, particularly within the town centre, I am not of the opinion that its loss would have a *significant* detrimental impact upon the character and appearance of the locality, or wider area.
- 5.3.9 As only part of the building on site is considered to be of some merit, I have discussed with the applicants whether the proposal could incorporate the retention of the historic part of the building. However, it was concluded that the retention of this building would be likely to give rise to a number of concerns. Firstly, the building is orientated in such a way that a residential use would be likely to result in overlooking of the adjacent property to the north of the site. The retention of the building would also fail to address the street frontage, and would make the redevelopment of the remainder of the site very difficult, as the building effectively 'turns its back' on the southern part of the site. Due to the significant alterations made to the building, a significant level of work would also be required on the west and south elevation, to ensure that they addressed the road frontage, thereby also requiring further potential internal alterations. The retention of this building would also make it more difficult to provide a suitable access into the application site.
- 5.3.10 The site lies within the urban confines, and is located within a very sustainable location. Whilst there is no need for residential development in supply terms (within the Borough) as this is a particularly sustainable location, I consider that

it is an appropriate site for such a redevelopment. In addition, the site is not designated for any particular use within the Maidstone Borough Wide Local Plan (2000), and as such, the principle of residential use on this site is acceptable, subject to all other material considerations being met.

5.4 **Visual Impact**

5.4.1 Whilst an outline application, with matters such as layout, appearance and scale for future consideration, illustrative plans have been submitted. These plans re-enforce my view that any residential development within this site should have a strong frontage presence along Hastings Road, and this should influence the overall design, and density of any future reserved matter application. As set out above, I consider that Hastings Road has a particularly strong character, with the houses being fine examples of Victorian terraced properties. These buildings are relatively ornate. The manner in which they step up as the street rises is also an important feature of these properties. The applicant has illustratively shown 25 dwellings proposed on the application site. Whilst this shows the provision of dwellings within the rear, I do not consider that this would have a detrimental impact upon the character and appearance of the area. However, I consider that the provision of any additional units would potentially appear cramped, and as such, I am recommending a condition that limits the density on site to that shown on these illustrative plans. I am satisfied that this application can be dealt with in outline form as all relevant matters can still be assessed at this stage. Should permission be granted, guidance can be provided at this stage as to how the development should be brought forward at a reserved matters stage, both through the imposition of conditions, and informatives – these are set out below.

5.4.2 Whilst I am not of the opinion that any development that takes place on this site replicates the design of these buildings, I do consider it important that the rhythm and the form of these properties be respected. As such, I consider that any development that comes forward as a reserved matters application should address the following:

- The buildings should be set back from the road, and provided with a front garden area with a minimum depth of 4metres;
- Any properties that front on to Hastings Road should address the changes in topography – roof slopes are particularly important;
- The properties shall be no more than 2 ½ storeys in height, with the eaves height respecting the eaves heights of the existing dwellings within the street;
- Properties should be provided with a dwarf wall to the front, with soft landscaping behind; and
- The rhythm of the buildings fronting Hastings Road should respect the plot widths and patterns of the existing dwellings within the street.

I consider that these form a fundamental part of developing the site in an appropriate manner.

- 5.4.3 I do not consider it appropriate to allow for properties greater than 2 ½ storeys in height (i.e. two storeys with rooms within the roof) as this would respect the strong character of Hastings Road. Buildings taller than this would appear somewhat dominant, exacerbated by their close proximity to the highway, and the lack of soft landscaping provision to the front. As such, I recommend that this be incorporated within a condition of any permission. In addition, I am suggesting a condition that would ensure the provision of a front garden of a minimum depth of 4metres, which shall be provided with soft landscaping (indeed, I will place a condition recommending that a hedge be introduced along the frontage – which would replace the one currently in situ).
- 5.4.4 I am of the opinion that should these matters be addressed, the development would respect the existing pattern, and grain of development within the locality, and as such would preserve its character.
- 5.4.5 However, if we are recommending that a building of the quality of Astley House be removed from any application site, it should be ensured that the development to replace it is of a particularly high quality of design. Whilst this is an outline permission (as the applicant seeks to sell the site with permission rather than develop it themselves) I consider it appropriate to agree parameters that would agree the scale, and form of the buildings, and other matters such as the quality of the detailing to be agreed at this stage. This would go some way to help mitigate the loss of the heritage asset, and also to ensure that the quality of the existing built form within Hastings Road is respected. As this is an outline planning application, no detailed design has been submitted, however, I am of the opinion that informatives should be placed on any planning permission granted, to address the following matters:
- The fenestration within the development should be of a high quality, and address the context of the locality;
 - High quality materials shall be used throughout the development;
 - Tree planting and soft landscaping shall draw reference from the historic parkland setting of the application site;
 - There shall be no meter boxes located on the front of any of the buildings fronting Hastings Road;
 - Whilst a minimum of Level 3 of the Code for Sustainable Homes has been suggested, you are advised that it would be appropriate to seek to achieve at least Level 4 if possible.

These matters should be fully addressed within the submission of any reserved matters application that is subsequently forthcoming.

5.4.6 I agree that the loss of the existing building is regrettable; however, I consider that this proposal would result in a form of development that would address the road frontage in a more appropriate manner. Decisions that see the loss of buildings of a certain age are often balanced. However, this proposal would enhance the public domain from that of the existing situation, which sees the building orientated side on the highway, with an area of hardstanding between the property and the boundary. I therefore consider that the proposal (subject to suitable reserved matters being submitted) would respond positively to the character and appearance of the locality, and as such, is acceptable.

5.5 Residential Amenity

5.5.1 At present, the property is used as a music school. I have been informed by the music school that the use did/does generate complaints through the noise generated. I have not received any correspondence from neighbouring occupiers to confirm this matter. However, it is clearly a relatively intensive use at present, with large numbers of visitors to the site on a daily basis.

5.5.2 As stated above, the plans submitted are illustrative only, however, they do demonstrate that a residential development can be produced that would not detrimentally impact upon the amenities of the neighbouring occupiers for the reasons given below.

5.5.3 In terms of overlooking, the properties within Greenside have substantial rear gardens, which have a minimum depth of 27metres, as well as a number of substantial trees and shrubs. The plans submitted show that the properties located within the rear of the site could be sited 10metres from the rear boundary, providing a total of 37metres back to back distance. Whilst illustrative, these do clearly show that a proposal can be produced that would not result in any overlooking to these properties. In addition, the illustrative plans show that the existing properties within Hastings Road would be side on to any new properties. This would ensure that there would be no significant overlooking occurs to these neighbouring properties.

5.5.4 With regards to the creation of a sense of enclosure, or the loss of light to existing properties, again I am satisfied that a residential development can be accommodated within this site without an adverse impact. I am of the opinion that any layout that comes forward at a reserved matters stage should include a strong road frontage, and as such, these properties would be side to side with the existing properties at each end of the application site. Again, the distance of the rear gardens within Greenside would ensure that the development would not prove overbearing for residents of these properties.

5.5.5 I do not consider that the proposal would result in any additional noise and disturbance to the neighbouring occupiers. A residential use is suitable for such a location.

5.5.6 To conclude, I am of the opinion that the illustrative plans demonstrate that a residential development can be accommodated within the application site without having a detrimental impact upon the amenities of the neighbouring occupiers.

5.6 Highways

5.6.1 Kent County Highway Services raise no objections to this proposal. However, a significant level of concern has been raised by interested parties with regards to the parking provision within the application site. It is acknowledged that there is not an abundance of on-street parking within Hastings Road, by virtue of it being a terraced street, close to the town centre. At this end of the road, there are parking restrictions along the eastern side (no parking) and parking bays along the western side – although it should be noted that many of the properties on the western side have converted their front gardens to driveways, thus reducing the on-street parking available. I am of the opinion that the site is located within a particularly sustainable location. It is within walking distance of the town centre, and approximately 400metres to Maidstone bus terminus (it is also noted that the number 85 bus service runs to the front of the site). In addition, there is a public car park at the northern end of Hastings Road, for both resident and visitor overspill parking provision.

5.6.2 I therefore consider that the parking provision within the development needs to find the balance between an adequate parking provision and ensuring that the development respects the sustainable location of the application site.

5.6.3 The plans submitted are illustrative only; however, these do demonstrate the provision of an average of 1.2spaces per unit. I am of the opinion that due to the fact that these properties are shown as family accommodation, this should be increased slightly to 1.5spaces per unit. This would ensure that each property has at least one space per dwelling, with the larger properties provided with more, as well as the potential for visitor parking spaces. However, in order to acknowledge the sustainable location of the site – i.e. near to the town centre, bus station etc – I am suggesting that an informative be imposed recommending that the details of the reserved matters do not have an over-provision of parking spaces.

5.6.4 I am also of the opinion that the character of Hastings Road is that of a strong line of terraced properties, with front gardens. This character has been eroded somewhat by the number of properties that have converted their front garden areas to parking spaces. As such, I am recommending a condition be imposed

that all car parking be provided to the rear of the new properties fronting Hastings Road – this has been shown illustratively. This will ensure that these properties have a suitable level of soft landscaping to the front. This has been shown on the illustrative plan submitted. Access to these parking spaces would be as shown, and agreed by the approval of this outline consent.

- 5.6.5 The access into the site is the only matter for consideration at this point. This is shown as being towards the northern end of the application site. This is in a similar location to the existing access into the music school. However, the access created will be provided with a suitable kerb radius, and as such, will be wider than the existing access. In order to ensure that the development has a suitable level of soft landscaping throughout, I am recommending a condition be imposed that ensures that only one pathway be provided on this access, rather than the two currently shown. I am also of the opinion that the pathways within the development be finished to a high quality. I am satisfied that the access as shown would be suitable for the access of both refuse lorries, and fire appliances, however, careful consideration would need to be given to any internal layout to ensure that they would be able to turn, and thus leave the site in a forward gear.
- 5.6.6 I am therefore of the opinion that the development, which is located within a sustainable location, can accommodate a suitable level of parking provision, which would ensure that the development would not give rise to any highway safety issues. I am therefore satisfied that the development is in accordance with PPG13.

5.7 **Landscaping**

- 5.7.1 Landscaping has been identified as a matter reserved for future consideration, and as such no detailed plans have been submitted. However, I am of the opinion that this is a particularly sensitive site, and as such, the application should be guided at this stage as to what type of landscaping provision this Authority will expect to ensure that any future development be of a sufficient standard.
- 5.7.2 As set out above, there would be a number of trees removed as a result of this proposal. However, the arboricultural report submitted demonstrates that the majority of trees within the site are of limited value, with only four classified as being of 'category B,' whose retention would be desirable. Thirty three trees on site are classified as being within 'category C' which are considered to be of low quality and value, with five trees identified as dying or dangerous, and required for removal.
- 5.7.3 The submitted plan demonstrates that the majority of the trees within the site are located along the east, west and south boundary, and as such, it is

considered that the majority of these can be retained as part of this proposal. Whilst the report states that many are of limited quality, due to their size, I consider that they have a positive impact upon the character of the area, and as such, any detailed design that is brought forward should be influenced by the location of these well established trees.

5.7.4 With the retention of the trees along the eastern boundary of the application, there would not be a significant requirement for any further landscaping to be provided along this boundary. These trees would provide a good natural screen along the edge of the site, which would retain much of the biodiversity within the site, as well as providing an element of screening between the residential properties within the site, and those to the rear.

5.7.5 Likewise, along the southern boundary, if much of landscaping is retained, a soft edge would be retained. However, there would remain scope for additional planting, and I would encourage the provision of a hedge within the gaps. I recommend a hedge as this could be retained at a manageable height, and would not grow to such a size as to overshadow the residential properties – I would be concerned that if too many trees be planted, they, together with the existing would create overshadowing, with the potential for future pressure to remove. I therefore suggest that any landscaping condition imposed addresses this matter.

5.7.6 I am of the opinion that any landscaping along the front of the application site is of utmost importance. As can be seen from many of the existing properties along Hastings Road, a paucity of soft landscaping leads to a gradual erosion of the character and appearance of the locality. I consider it likely that there would be pressure to remove the existing trees that currently front on to Hastings Road however, subject to suitable replanting; I do not consider that this would be to the detriment of the character and appearance of the locality. I would welcome the introduction of a hedge along the front boundary of the properties within Hastings Road, which would again be manageable, and would not result in a significant loss of light to the future occupiers of these units. Again, I consider it appropriate that this forms part of any landscaping condition.

5.7.7 Internally, I consider that the reserved matters application should fully address the urban nature of the site, and seek, where possible enhancements to the landscape. These should be both physical enhancements, and also to encourage further ecology into the application site.

5.7.8 Should these matters be fully addressed I am of the opinion that the development could result in an enhancement of the character and appearance of the locality.

5.8 **Heads of Terms**

5.8.1 The applicant has submitted a draft S106 agreement which sets out the following: -

- Affordable Housing to be at a minimum of 40% of the total number of units;
- Contributions towards parks and open space (£1575 per dwelling);
- A Primary Healthcare contribution of £120 per occupant of the development per annum for a period of five years;
- £1440 for additional book stock for the local library;
- £7968.75 for the additional youth and community workers (part thereof) required as a result of this development.
- £379.65 for adult social services that would be generated by this requirement.

The applicant has also agreed to amend this agreement to include the following:

- The applicant will seek to ensure the relocation of the Kent Music Centre within a 15km radius of the existing application site, within the town of Maidstone in the first instance, or if unsuccessful within the Borough of Maidstone. Should an exhaustive search clearly demonstrate that no suitable accommodation be available,

5.8.2 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Act. This has strict criteria that sets out that any obligation must meet the following requirements: -

It is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.8.3 This proposal includes the provision of contributions for the Primary Care Trust (PCT), Kent County Council (KCC), and for Maidstone Borough Council Parks and Open Space Department (POS). The applicant has been made aware of these requests, and has agreed, in writing, the heads of terms as set out below.

5.8.4 The applicant has been made aware of the requirement of to provide a minimum of 40% affordable housing within the development. This accords with the Development Plan Document (DPD) adopted by this Authority in 2007. This DPD acknowledges that there is a significant shortfall of affordable properties within the Borough, and as such, has identified this as a requirement of all planning applications of 15units or more. Furthermore, central government has also highlighted the provision of affordable housing as a priority. I am therefore

satisfied that the provision of 40% affordable housing would meet the three tests set out above.

5.8.5 Point 'a' of the three tests above, requires that any part of a submitted legal agreement be necessary to make the development acceptable in planning terms. It is on this basis that the applicants have been asked to agree to a clause that requires them to look at sites within a 15km radius, within the Borough to relocate first. As stated, advice has been sought from the Council's legal section, who have advised that it would be appropriate to require the applicant to demonstrate best endeavours to stay within this locality. I consider this essential to ensure that the proposal complies with the policies within the Development Plan. This is also directly related to the development in that it relates to the specific use of the site. I also consider that this requirement is reasonably related in scale, in that we are not asking for further provision, simply to ensure that the provision that exists be retained.

5.8.6 The PCT have requested that a contribution of £120 per occupant per dwelling be provided to upgrade the existing facilities within the locality, to ensure that the additional demand placed upon this infrastructure can be accommodated. The PCT have confirmed that the money will be spent upgrading the nearby surgery within Kings Street. Policy CF1 of the Local Plan states that residential development that would generate a need for new community facilities will not be permitted unless the provision of new (or extended) facilities are provided, or unless a contribution towards such provision is made. I am of the opinion that the additional units being proposed here would give rise to additional demand upon the existing surgery, and that the money being requested is not excessive. I am therefore satisfied that this request for contributions complies with the three tests as set out above.

5.8.7 KCC has requested that the following contributions be made:

- £1440 for additional book stock for the local library;
- £7968.75 for the additional youth and community workers (part thereof) required as a result of this development.
- £379.65 for adult social services that would be generated by this requirement.

Again, I am satisfied that this request is in accordance with Policy CF1 of the Maidstone Borough Wide Local Plan (2000). KCC have identified that there would be (up to) an additional 11 people utilising the local library (currently Maidstone Library, although this will move to the new county library once completed) as a result of this proposal, and these would each (on average) borrow 27.52 books per year. In order to meet this additional demand, KCC have assessed the average book stock, and use, as well as the cost of providing new books. This

demonstrates that to provide these additional books over a three year period would cost £1440. I consider this request to meet the tests set out above.

5.8.8 With regards to the request for youth and community workers, KCC have identified that the proposal would give rise to additional demand for such a provision. I consider that this request is justified, and that applicants have agreed to provide such a contribution. Again, I consider that this request meets the three tests as set out above, and as such, it is appropriate to require this contribution be made.

5.8.9 Maidstone Borough Council Parks and Open Space Officer was consulted and has requested that a contribution of £1,575 per dwelling be made to improve the open space provision within the locality. It has been agreed that this money would be spent to improve the playing area within Mote Park, which is within a short walk of the application site. As this outline permission indicates the provision of dwellings, I consider that they are capable of being suitable for family accommodation. I therefore am of the opinion that providing these contributions would not only be in accordance with the Councils adopted Development Plan Document (DPD) but the three tests set out above.

5.8.10 I am therefore satisfied that the affordable housing provision, requirement to look at sites within the Borough and the contributions being sought and agreed by the applicant, are acceptable and should be provided through a suitable legal agreement.

5.9 **Sustainability/Ecology**

5.9.1 The applicant has agreed that the development shall be built to at least level 3 of the code for sustainable homes. It is likely that all of the affordable units within this development (due to the timescales involved) would have to be built to at least level 4 of the code. Discussions were held with the applicant to seek level 4 to be achieved on this site, but they consider that this would not be financially viable. Whilst no evidence was submitted to confirm that this is the case, the applicant has agreed that an informative should be placed upon any permission that would request that the prior to the submission of the reserved matters application, the applicant (or successors in title) fully assess the viability of providing at least level 4 across the site.

5.9.2 With the 'reinstatement' of the South East Plan (2009), policy NRM11 requires any development that would consist of more than 10 dwellings be constructed in such a way that at least 10% of the energy sourced by obtained from renewable or low carbon sources. Whilst it is a material consideration that the South East Plan is to be removed at some point in the near future, I consider it appropriate to impose this condition nonetheless. The applicant has agreed.

5.9.3 At present, there are small areas of the site given over to grass, with trees and shrubs planted intermittently along the boundaries. There is therefore the scope for ecology to utilise this area both as habitat, and for foraging. The proposal would, I consider, also give rise to the opportunity for enhancement, with the provision of areas for gardens, and indeed public open space. I do not consider however, that this alone to be sufficient. I am therefore recommending that any reserved matters application incorporate the following features:

- Log piles – with any trees removed from the site to be utilised for this purpose;
- Swift Bricks to be incorporated within the design of some of the residential units;
- Bat boxes to be provided both upon the proposed dwellings, and the retained trees within the site.

5.9.4 Should these features be incorporated within the development, together with the additional hedge planting that is being recommended, I am of the opinion that the proposal would have the potential to enhance biodiversity within the application site, and as such, accord with the requirements of PPS9.

6 CONCLUSION

6.0.1 To conclude, whilst this proposal would result in the loss of the Kent Music School from this site, the school have stated that will stay within the Borough subject to finding suitable accommodation. I am satisfied that best endeavours will be required to be demonstrated to have been made to ensure that they remain within the Borough, as a result of giving this planning application favourable consideration. As stated, the Music School would (finances aside) be in a position to leave the site, and relocate to any destination without the benefit of planning permission (they have not indicated that they would do so). As such, by granting planning permission for this outline consent, with a suitable legal agreement, it provides this Authority with the greatest possible security to ensure that they remain within the town for the foreseeable future.

6.0.2 Whilst the concerns of the Conservation Officer are understood – this is a building of some interest – I am of the opinion that its value has been significant diminished over time, both in terms of its form, and its setting. The building is not listed, and has no statutory protection, and it could therefore be demolished without prior consent. The loss of any building of this age, and quality is regrettable, but in this instance I consider its removal to be, on balance, acceptable.

6.0.3 Although the submission includes illustrative plans only, I am of the opinion that these demonstrate that a suitable level of housing provision could be accommodated within the site. Conditions have been suggested to ensure that

the development be assimilated into the surrounding area appropriately, and that the existing pattern and grain of development be respected. The landscaping conditions suggested above should also ensure that the development has a high quality character. It is also acknowledged that parking is a concern within Hastings Road, but I am satisfied that a suitable level of parking provision can be accommodated within the application site, without significant overspill to the neighbouring roads.

6.0.4 I therefore recommend that Members give this application favourable consideration and give delegated powers to the Head of Development Management to approve subject to the submission of a suitable S106 agreement and the conditions and informatives as set out below.

7 RECOMMENDATION

Subject to the submission of a S106 legal agreement addressing the following matters:

- A minimum of 40% affordable housing on site;
- The applicant must use their *best endeavours* to relocate within a 15km radius of the application site, within the Borough of Maidstone, within two months of leaving their existing site;
- A contribution of £1440 for additional book stock for the local library;
- A contribution of £7968.75 for the additional youth and community workers (part thereof) required as a result of this development;
- A contribution of £379.65 for adult social services that would be generated by this requirement;
- A contribution of £120 per occupant per dwelling (for five years) for improving the existing health care facilities within the King Street Surgery;
- A contribution of £1,575 per dwelling for the improvement of the open space within Mote Park.

The Head of Development Management BE GIVEN DELEGATED POWERS TO APPROVE subject to the conditions set out below:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

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

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

Reason: To ensure a high quality appearance to the development in accordance with PPS1.

3. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a high quality appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1.

4. The development hereby permitted shall not exceed a density of 48 dwellings per hectare;

Reason: To ensure conformity with the existing density and pattern of development in the surrounding area in accordance with PPS1 and the Kent Design Guide.

5. The details submitted for the residential units fronting Hastings Road, pursuant to Condition 1 shall show inter alia a building or buildings whose eaves height shall not exceed two storeys from normal ground level;

Reason: To ensure conformity with the existing form and character of development in the surrounding area in accordance with PPS1.

6. The development shall not commence until, details of all fencing, walling and other boundary treatments (which shall include the retention or rebuilding of dwarf wall along the Hastings Road frontage) have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1.

7. The development shall not commence until, details of the parking spaces and/or garages and sufficient turning area to enable vehicles to enter and leave the site in forward gear have been submitted to and approved in writing by the Local Planning Authority;

Reason: Development without adequate parking/garage provision is likely to lead to parking inconvenient to other road users and in the interests of road safety, in accordance with PPG13.

8. A scheme of landscaping using indigenous species as required under Condition 1 above shall include indications of all existing trees and hedgerows on the land, and details of any to be retained. The development shall also include:-

- i) The provision of a hedge along the Hasting Road frontage;
- ii) The provision of a landscaped buffer along the southern boundary of the application site, which shall be at least 2metres in depth, and should include a hedge, and trees as well as low planting;
- iii) The provision of suitable tree planting along the eastern boundary;
- iv) The retention of the trees shown within the arboricultural report (unless otherwise agree in writing).

Details of the measures for their protection in the course of development, together with and a programme for the scheme's implementation and long term management shall also be submitted. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and in the interests of visual amenity in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan (2000) and PPS1.

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

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan (2000) and PPS1.

10. The details submitted pursuant to Condition 1 shall show inter alia a building or buildings that are set back a minimum of 4metres from the edge of the pedestrian footpath;

Reason: To ensure conformity with the existing form and character of development in the surrounding area in accordance with PPS1 and to ensure a good level of landscaping provision in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

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

Reason: to ensure a sustainable and energy efficient form of development in accordance with Kent Design 2000 and PPS1.

12. There shall be a minimum of 1.5 spaces per dwelling.

Reason: To ensure a suitable level of parking provision within the application site, in accordance with PPG13.

13. The details submitted pursuant to Condition 1 shall show inter alia a building or buildings that are articulated so as to reflect the topography, pattern and grain of the development within the locality.

Reason: To ensure conformity with the existing form and character of development in the surrounding area in accordance with PPS1 and to ensure a good level of landscaping provision in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

14. The car parking provision for properties fronting Hastings Road shall be provided to the rear of these properties, with no parking provision to the front of these properties.

Reason: In the interests of visual amenity and good design in accordance with PPS1.

15. Notwithstanding the plans submitted, the access into the site shall be provided with a maximum of one footpath.

Reason: In the interests of visual amenity, and to enable a suitable level of soft landscaping provision in accordance with PPS1 and Policy ENV6 of the Maidstone Borough Wide Local Plan (2000).

Informatives set out below

No burning shall take place on site.

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

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

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside of the normal working hours is advisable.

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

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

The applicant is reminded of the sustainable location of the application site, and the need to balance the provision of parking in accordance with sustainable objectives, and highway safety. I therefore recommend that prior to the submission of any reserved matters planning application, discussions are held with the Borough Council Planning Officers, and Kent County Council Highway Services to fully address this matter.

The applicants, or successors in title are advised to seek to improve biodiversity within the application site. It is suggested that any development incorporate the use of bat boxes, swift bricks, and if appropriate the provision of cordwood.

Any buildings proposed within the site should be well articulated, and should respect the pattern of the development within the locality.

The areas designated for vehicular movements and parking should be kept to a minimum.

No vehicles may arrive, depart, be loaded or unloaded within the general site, and plant and machinery shall not be operated, that would generate noise beyond the boundary of the site, except between the hours of 0800 hours and 1800 Mondays to

Fridays and 0800 and 1300 hours on Saturdays (and at no time on Sundays or Bank or Public Holidays).

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.

APPLICATION: MA/99/1420 Date: 20 August 1999 Received: 16 September 1999

APPLICANT: Kent County Council

LOCATION: Astley House, Hastings Road, MAIDSTONE

PARISH: Maidstone

PROPOSAL: Outline application for a residential redevelopment following demolition of existing buildings with all matters reserved for future consideration, as shown on drawing no. TQ7655/15h received on 02.09.99.

AGENDA DATE: 25th November, 1999

CASE OFFICER:

POLICIES

Maidstone Borough Local Plan 1993: ENV1
Maidstone Borough Wide Local Plan (Deposit Draft) 1997: ENV3
Kent Structure Plan 1996: ENV15
Planning Policy Guidance Notes: PPG1, PPG3 (PPG13)

HISTORY

MA/99/0857 - Change of use from local government offices to educational use by Kent Music School - Approved.

CONSULTATIONS

None.

REPRESENTATIONS

ONE LETTER OF SUPPORT has been received from a local resident subject to the following matters:

- The density of the housing is acceptable
- All parking is contained within the site
- Access to the site is adequate

THREE LETTERS OF OBJECTION have been received raising the following concerns:

- Additional traffic would be detrimental to highway safety;
- The main utilities could not cope with extra houses;
- There is already a parking shortage in the area and further development would add to this problem;
- The building is historic and should not be demolished as part of Maidstone's heritage.
- One resident suggested that the following measures be implemented should planning permission be granted:
 - . A parking zone be created on the Astley House side of Hastings Road;
 - . Removal of existing traffic islands;
 - . Allow the provision of hardstandings to existing properties along Hastings Road;
 - . Restrict all parking bays to permit holders only;
 - . Restrict the number of parking permits to 2 per household;

(It should be noted that on street car parking provision and traffic calming are not planning issues but matters to be dealt with by The Highway Authority).

ONE FURTHER REPRESENTATION was received from a local resident raising no direct objection but expressing concern about residents' car parking provision and use of the existing Astley House car park as an overflow. It has therefore been requested that careful consideration be given to car parking provision.

ASSESSMENT

Description of the site: The application site is located on the eastern side of Hastings Road in a predominantly residential area. The existing building on the site is a local government office building with a rear car park. The site covers an area of 0.52

hectares and there are two existing access points to the site along Hastings Road.

Proposal: The application seeks outline planning permission for residential development following the demolition of the existing building on the site. It should be noted that matters of means of access, siting, design, external appearance and landscaping are all reserved for future consideration.

PLANNING CONSIDERATIONS

As all matters of detail have been reserved for future consideration, the main issues to assess is whether residential development would be acceptable in principle on the site.

With regard to the existing building on the site, this building is not listed and it is considered that it does not hold any significant architectural and/or historic interest or merit to justify its retention. Therefore, the demolition of the existing building on the site is considered to be acceptable in principle.

With regard to the proposed use of the site for residential development, the site has no particular land use allocation on the proposals map in the adopted and deposit Local Plans. However, the site is located in a predominantly residential area and therefore use of the land for residential purposes is considered to be in keeping with the existing surrounding development. Government Guidance (PPG3) encourages the use of brownfield sites for housing development, especially within close proximity to and within town centre areas, with easy access to public transport provision. Therefore, residential development on the site is considered to be acceptable in principle, in accordance with Government Guidance and relevant planning policy.

RECOMMENDATION

Outline planning permission is GRANTED subject to the following conditions:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Siting b. Design c. External appearance d. Means of Access e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

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

2. Prior to the commencement of the development, details of all fencing, walling and other boundary treatments shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;

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

3. Prior to the commencement of the development, details of the parking spaces and/or garages and sufficient turning area to enable vehicles to enter and leave the site in forward gear shall be submitted to and approved in writing by the Local Planning Authority;

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

4. Prior to the commencement of the development, details of the means of vehicular access to the site, including the road width, kerb radii, visibility splays and details of finishing materials, shall be submitted to and approved in writing by the Local Planning Authority;

Reason: No such details have been submitted.

5. The approved details of the access shall be completed before the commencement of the use of the land or buildings hereby permitted and the sight lines maintained free of all obstruction to visibility above 1.0 metres thereafter;

Reason: In the interests of road safety.

6. Prior to commencement of development, details of foul and surface water drainage arrangements shall be submitted to and approved in writing by the Local Planning Authority; and the approved details shall be implemented before the hereby permitted development is brought into use;

Reason: No such details have been submitted.

Informatives set out below

The applicant is advised that works within the limits of the highway must be carried out in accordance with the Council's Technical Services Manager (Highways) from whom a detailed specification can be obtained (01622 602367).

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

Plant and machinery used for demolition and construction shall only be operated within the site between 0800 and 1900 hours Monday to Friday, 0800 and 1300 hours on Saturdays (and no time on Sundays and Bank Holidays).

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Council's Environmental Health Manager (01622 602308).

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Agenda Item 17

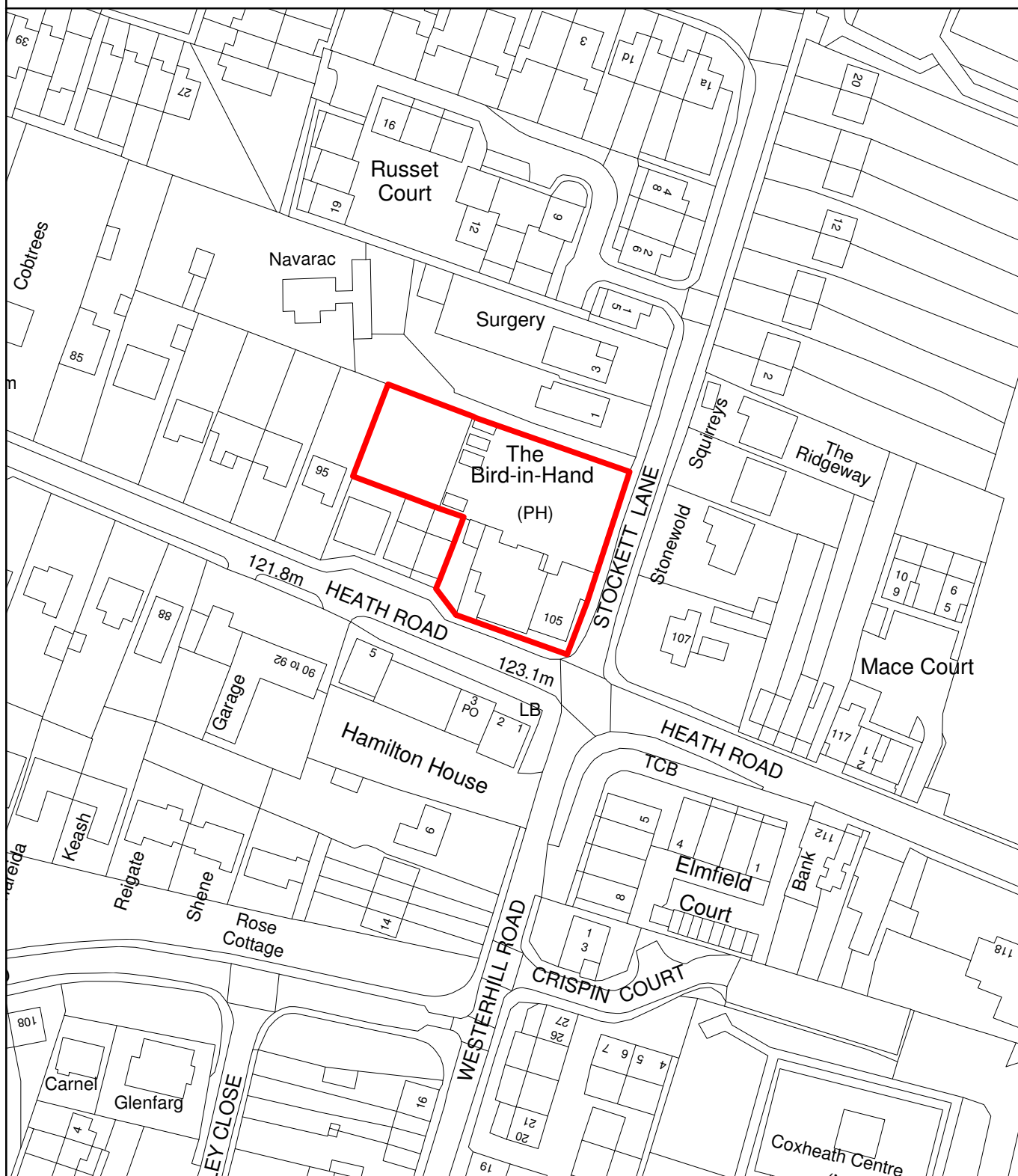
THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0992

GRID REF: TQ7451

LAND AT LONDIS STORE & BIRD IN HAND P.H.

HEATH ROAD, COXHEATH.



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/0992 Date: 7 June 2010 Received: 7 June 2010

APPLICANT: Mr S Bains

LOCATION: LAND AT LONDIS STORE & BIRD IN HAND P.H., HEATH ROAD, COXHEATH, MAIDSTONE, KENT, ME17 4EH

PARISH: Coxheath

PROPOSAL: Demolition of Londis store and 'Bird In Hand' public house and erection of 2 buildings accommodating approximately 325sqm A1 Retail floorspace, with basement storage area, 110sqm A4 Public House floorspace, and 10 flats with associated parking, access and landscaping in accordance with the statement of community involvement, design and access statement, planning statement, transport statement, plans numbered DHA/7282/11; DHA/7282/10; DHA/7282/12 as received on 7 June 2010; plan numbered DHA/7282/13 received on the 14 June 2010; heritage statement received on 3 August 2010; plan numbered DHA/7282/02 received on 16 September 2010; and plan number DHA/7282/05 received on 13 October 2010.

AGENDA DATE: 25th November 2010

CASE OFFICER: Chris Hawkins

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: ENV6, H27, T13
South East Plan CC4, NRM11, H1, H3, H4, T4, NRM1, BE1, BE6
Village Design Statement: N/A
Government Policy: PPS1, PPS3, PPS9, PPG13

2 HISTORY

2.1 There is no relevant planning history for this site.

3 CONSULTATIONS

3.1 **Kent Highway Services** raise no objections to this proposal subject to the imposition of suitable safeguarding conditions and informatives upon any planning application. These are summarised as follows:

Conditions:

- Removal of pd rights for the parking spaces;
- Removal of pd rights for the loading bay;
- Cycle storage provision;
- Access shall be built to satisfaction of the highway authority;
- Any entrance gates to be set back at least 5.5metres from the highway;
- Suitable visibility splays.

Informatives:

- Parking provided for operatives;
- Disposal of surface water from the site;
- Prevention of mud being deposited onto the existing road network;

3.2 **Maidstone Borough Council Conservation Officer** has objected to the proposals. The concerns raised are as follows:

'As a late Georgian building (the public house) in the setting of a Grade II listed building (the dwelling opposite the site), the 'Bird in Hand' Public House is a non-designated heritage asset as defined in PPS5. In response to our initial feedback, a heritage statement was requested which would provide details of its history and architectural significance and explains how its demolition would be acceptable from a heritage standpoint. We have reviewed the statement which has been submitted, which addresses the question of the impact of the new development on the listed building. It does not, however, address the heritage significance of the Bird in Hand Public House itself and how its demolition should be considered acceptable from a heritage standpoint. We therefore object to the public house's demolition on the grounds that we have been given insufficient justification as per PPS5 Policy HE7.1:

In decision-making 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 (including by development affecting the setting of a heritage asset) taking account of: (i) evidence provided with the application, [and] (iv) the heritage assets themselves.

As the applicant has failed to fully assess the significance of the non-designated heritage asset, we object to its demolition.

This building is considered to be a non-designated heritage asset due to its age, the survival of many of its features, and its location. The core of this building appears to be an early 19th century public house erected at the time that the road was created in this part of Coxheath. A brief inspection confirms that the core of the building retains many of its original design features, including some of the original sash windows. Importantly, it has group value with the listed building nearby, both of which are the only remaining historic structures at this crossroads. Of the buildings which appear on the 1876 Ordnance Survey map, only these two remain. In an area which has few historic buildings, the heritage importance of the pub is considered to be even greater. Demolishing it would not only permanently remove a building of some heritage significance, it would also in effect strand the listed building, leaving it the only building in the vicinity which can speak to the historic development of this area.'

- 3.3 **Maidstone Borough Council Environmental Health Officer** was consulted (on 16 June 2010) and raised no objection to this proposal.
- 3.4 **Maidstone Borough Council Parks and Open Space Officer** was consulted (on 16 June 2010) and raised no objections to this proposal subject to the applicant providing suitable contributions to improve the parks and open space provision within the locality. The Parks and Open Space Officer has identified that the money would be spent at the children's play area within Stockett Lane.
- 3.5 **EDF Energy** were consulted (on 16 June 2010) and raised no objections to the proposal.
- 3.6 **The Primary Care Trust** were consulted (on 16 June 2010) and raised no objections to this proposal subject to the applicant providing suitable contributions to improve healthcare facilities within the locality. It has been identified that the money would be spent improving the facilities within the Stockett Lane surgery, which is within the close proximity of the application site.
- 3.7 **Kent Police Authority** were consulted as it would result in the creation of a new pub/bar (on the 16 June 2010) and no comments have been received.

***Officer Comment:** I do not consider the lack of comments to result in an inability to determine this application.
- 3.8 **Southern Water** were consulted (on 16 June 2010) and raised no objections to this proposal.
- 3.9 **Scottish Gas** were consulted (on 16 June 2010) and raised no objections to this proposal.

4 **REPRESENTATIONS**

4.1 **Coxheath Parish Council** were notified of this application, and they wish to object to the proposal. Their concerns are summarised below: -

- Recognises that the proposed development will have a major impact on the village as a whole as it is located within a prominent location;
- It is acknowledged that this is an improvement to the existing facilities;
- Concern is raised with regards to the flat roof element of the proposal;
- It is not in scale or of a design that reflects the character and appearance of the locality;
- The letter which is included in the Transport Statement Appendix F relating to the use of smaller delivery vehicles is not a definitive undertaking to ensure rear servicing. It merely states that a smaller vehicle could be considered, subject to a risk assessment. The Parish Council wishes to see a definite undertaking on rear access, relating to both the shop and the pub, and a condition requiring rear access and preventing deliveries from Heath Road.
- The combined development of A1 retail, A4 public house plus 10 residential flats does not provide sufficient parking to meet the requirements as set out in the applicant's Transport Statement (ref JSL/T0086 dated May 2010). We would therefore like to see the two separate flats removed from the proposal in order to provide more parking for the shop and the pub.
- Of the 10 parking spaces allocated to the flats, two are enclosed garages beneath Flat No. 1 housed separately from the shop. The Parish Council feels that these must be used for parking, unlike many garages, and there must be a condition that they cannot be converted to residential use.
- The remaining 10 parking spaces, including a disabled bay are to service the A4 retail (14 spaces suggested), A1 public bar (11 spaces plus 1 staff space suggested); No provision seems to have been made for visitor parking at the flats. The Parish Council's contention, therefore, is that the present parking uses will be in conflict for many periods of the day, resulting in increased congestion and parking problems;
- The Parish Council would like to see as a public benefit an improvement in the kerbing and footway on Heath Road near the lay-by to make it more difficult for vehicles to park on the footway and obstruct public access, particularly disabled access, and if possible to slightly increase the parking capacity of the lay-by;
- The finishes to the ground floor of the shop building in straight coursed reconstituted stonework, with no features at the window reveals, are seen as inappropriate. Although we acknowledge that stonework would deter tagging, brickwork would be more in keeping with the character of the area, It is imperative that, in this prominent location, materials and finish are of a high standard;
- The public house requires an outside area to cater for smokers and also for drinking in summer weather. The Parish Council does not wish to see any

continuation of 'on street' drinking at this establishment, because it encourages anti-social behaviour and risks the encouragement of under-age drinking. Therefore, we would like to see an appropriate outside area identified on the plan.

- The public house will need to provide disabled toilet facilities, which the Parish Council has been unable to identify in the plans. If possible, we would like to see the toilets made more widely available for community use;
- The adequacy of the provision for the collection and storage of refuse wheelie bins is unclear;
- It is also unclear whether the ground floor glazing is obscured, sign written or clear and there are no details of signage or lighting given with the application.

4.2 Neighbouring properties were notified and four letters of objection have been received. The concerns raised within these letters are summarised below: -

- The proposal would overlook the neighbouring properties;
- It will result in the loss of natural light to neighbouring properties;
- It will lead to an increase in traffic along an already busy road (Stockett Lane);
- The proposal would be on a very busy junction which could prove dangerous;
- Three storeys is too high;
- The refuse area should be closer to the shop;
- The proposal would have a detrimental impact upon the listed building opposite;
- The proposal would impact upon pedestrian safety.

4.3 Six letters of support have been received. The points raised are summarised below: -

- The proposal will enhance the shop within the village;
- The proposal would be an improvement over the existing built form within the locality;
- The proposal will enhance the village facilities and community environment;
- The existing pub garden is a 'rubbish tip' and this will improve the situation;
- The proposal would provide a refreshing new look to this part of Coxheath;
- The proposal would enhance the character of the area;
- The provision of a suitable bin store is an enhancement;
- The provision of a green roof is to be applauded.

5 CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located at the corner of Heath Road and Stockett Lane within the centre of the village of Coxheath. At present, the site contains a two storey, late Georgian public house - 'The Bird in Hand' - as well as a two storey pitched roof retail property, the 'Londis' store at ground floor level, with residential unit above.
- 5.1.2 The public house appears to have a number of additions, to the front, side and rear, and the retail unit has also been extended to the front, with a flat roof element. These bring the existing buildings to the edge of the pavement, with a disabled ramp provided to the front of the retail unit. The original 'core' of the public house is thought to be of late Georgian construction, with original detailing remaining. This appears to be the central element of the building, which retains the original windows at first floor level on the front and side elevation. I am of the opinion however, that due to the number of extensions to the property, it is not easily identifiable as being a building from this period.
- 5.1.3 The existing retail unit is a continuation of the public house in form, with the pitched roof following the same height/pitch. This building is of later construction. This unit has also been extended to the front, with a single storey flat roof projection - bringing the building up to the edge of the pavement.
- 5.1.4 To the rear of the application site, and served off Stockett Lane is the existing car park, which serves both the public house, and the retail unit. There are approximately 10 parking spaces at present, although these are not demarcated. This area is set out with the parking area to the north, with a strip of landscaping along the northern boundary. There is an open area to the west of the site, which is laid to grass, with a row of trees along the western boundary.
- 5.1.5 Directly opposite the application site are two storey pitched roof commercial units with residential units above. These are of mid 20th Century construction with brick at ground floor and tile hanging above.
- 5.1.6 To the south east of the application site are two storey flat roof commercial units, which are again of mid 20th Century construction. This is of brick construction.
- 5.1.7 To the east of the application site is a Grade II listed building (107 Heath Road). This is a detached dwelling with an attached garage. The building has timber cladding, with original sash windows. This building is set behind a low fence, and a hedge of approximately 1.8metres in height. This building is accessed directly off Stockett Lane.

- 5.1.8 Immediately to the north of the application site is a detached dwelling (1 Stockett Lane). This is two storey in height, and fronts on to Stockett Lane.
- 5.1.9 As well as being located within the centre of the village, the site is relatively well served by bus services. The 89 bus runs from Coxheath to Maidstone every 15 minutes during the day, and running twice a day from Marden. In addition, the number 5 bus runs from the edge of Coxheath (Linton Crossroads) to and from Staplehurst to Maidstone.

5.2 **Proposal**

- 5.2.1 This is a detailed planning application proposing the erection of a three storey corner block, containing a new, replacement, larger retail unit, a public house/bar at ground floor, with flats above. It is also proposed that flats be provided to the rear of the application site, above an area set aside for car parking.
- 5.2.2 The proposal would see the erection of a two and three storey, flat roof building, that would have a curved façade at the point of the junction of Heath Road and Stockett Lane. This would be a stone and white rendered building. It is also proposed to build a two storey building within the rear of the application site, accommodating two residential units, with parking below. This would be a pitched roof structure, of more traditional appearance.
- 5.2.3 The main block, to the front of the application site, would have a stone base, at ground floor level, and would be rendered above. This building would have a depth of approximately 28m along the Heath Road frontage, and 24m along the Stockett Lane frontage (although the building would be curved at the junction of the two roads). The maximum height of the building would be 8.5 metres, although this would fall to 6.2metres at either end, to reflect the scale of the buildings on either side of the site. Two areas of sedum roof would be provided on either end of the proposal (upon the roof of the two storey element), as well as paved areas to be used as roof terraces for the future occupiers. All windows fronting the highway would be provided with juliette balconies. Each floor of the building would be separated by a projecting band of render.
- 5.2.4 Two curved, projecting canopies are proposed, above the access to the shop, and to the public house/bar.
- 5.2.5 It is proposed that a total of 254sqm of retail floor space would be provided (an increase from the existing 170sqm) and 110sqm A4 use (reduced from the existing 176sqm). Both the bar and retail unit would have a basement which would be used for storage. A total of flats would be provided within the building, all on the first and second floors. Access to these flats would be from the car

park area to the rear of the building. It is proposed that there be two one bedroom flats, five two bedroom flats, and one three bedroom flat. Four of the eight flats would have a private outside space (roof terrace).

- 5.2.6 The development at the rear of the site would have a maximum width of 15metres, and a depth of 15metres. The maximum height of the proposal would be 7.5metres. This element of the proposal would have car parking provision at ground floor – both garages and open car ports, with two flats provided at first floor. There would be two separate accesses to these flats. Due to the relatively low eaves level, much of the first floor accommodation would be provided within the roof.
- 5.2.7 This rear element of the proposal is more traditional in form, with the use of pitched roofs, tile hanging, and details such as exposed rafter feet. Each flat would be provided with an area of private amenity space.
- 5.2.8 The car parking area would be re-arranged, with the introduction of additional landscaping, and the re-orientation of the parking spaces. A total of 17 spaces would be provided, although four of these would be provided beneath the private residential units, and would not therefore be for customers of the shop/public house. The parking spaces have been set out in such a way to enable suitable turning within the site. Delivery vehicles would be able to turn within this space. The access would be widened slightly to enable larger vehicles to enter the site for loading and unloading purposes. It is only to be a small increase in width (approximately 1metre).
- 5.2.9 Landscaping would be provided along the northern boundary of the application site, as well as along the southern boundary running adjacent to the properties within Heath Road. No details have been submitted with regards to the type of landscaping proposed, other than to identify that tree planting will be incorporated and hedgerows to the boundaries of the application site. A small area (42m²) is set aside for outside amenity space to the rear of the proposed retail unit.

5.3 **Principle of Development**

- 5.3.1 The site is previously developed land, as identified within Annex B of PPS3, and is located within the village confines of Coxheath. I consider that the site is relatively sustainable, being within the centre of the village, with all residential properties within the village within a short walk of the site. Whilst there is no identified need for additional housing provision within the locality, due to the sustainable location, I consider its provision to be acceptable. As such, I am satisfied that the principle of the redevelopment is acceptable, subject to all other material considerations being met.

5.3.2 A further consideration is that the existing public house would be removed as a result of this proposal. Policy R11 of the Maidstone Borough Wide Local Plan requires local planning authorities to consider the implications of the loss of public houses through new development. However, whilst the public house would be demolished, the proposal incorporates the provision of floor space for a new public house/bar to be provided. Therefore, whilst this existing facility would be lost, a suitable replacement would be provided, and as such, I consider that the proposal would comply with the requirements of this policy.

5.3.3 An additional consideration is the loss of the existing building on the application site – the Bird in Hand Public House. As can be seen from above, the Conservation Officer has raised an objection to this proposal on the basis that the applicant has not addressed the loss of the existing public house upon the character and appearance of the area. The Conservation Officer opines that this is required, as the property is of late Georgian period, and is one of only two historic structures remaining in this central part of the village – the other being the listed building opposite.

5.3.4 PPS5 introduced the idea of a heritage asset – which is defined as:

'A building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage assets are the valued components of the historic environment. They include designated heritage assets as assets identified by the Local Planning Authority during the process of decision-making or through the plan-making process.'

This effectively can mean that buildings not deemed worthy of listing, can still be identified and protected if they are still considered to have a degree of significance to the locality. By virtue of the age of the public house, and despite its numerous additions, the public house has been identified as such.

5.3.5 Whilst the Conservation Officer's interpretation of this policy is understood, and I acknowledge that the core of the public house is of some interest, because of the number of unfortunate additions upon the building, and due to the relatively high number of buildings of this age within the Borough (if not within the locality), I do not consider that it is of significant merit and that its loss would be unacceptable. I am not of the opinion that the building is easily identifiable as being of particular merit, and indeed no objections have been raised from the public about its loss. The number of additions, together with the use of replacement windows has resulted in a building that does little to add to the character and appearance of the locality. Both the appearance of the building and its setting (the rear of the site is a car park) have been severely compromised. The Council's Conservation Officer has given this building greater importance than perhaps they would otherwise due to the fact that there are

less buildings of this age within the area, than say, within the centre of Maidstone. Whilst it is understood that this is a building of a certain age, and does retain some of its original features – it appears that the windows within the first floor may be original - I am not of the opinion that this merits its retention, as a suitable replacement building has been proposed.

5.4 **Visual Impact**

- 5.4.1 The proposal does respect the scale of the surrounding development, to ensure that it does not dominate the street scene. I also consider it important that the development should adequately address this prominent corner. This proposal does this with a curved elevation that provides a softer edge to this 90 degree junction. I do not consider that the provision of a three storey development on this corner would be of a scale that would appear incongruous within this locality. It is a centre of village location, and whilst there is not other full three storey development, due to the flat roof, the massing of this building is no greater than many of the two storey properties within the vicinity. In addition, the design drops down to two storeys at each end to address the scale of the buildings on either side of the site within Heath Road and Stockett Lane.
- 5.4.2 The design of this proposal imitates an 'art deco' form, with the erection of a three storey property with a flat roof. It is proposed that the ground floor be constructed of stone, with the first and second floors rendered. It is accepted that this would contrast with the development within the locality. However, I do not consider that the majority of the development within the immediate vicinity to be of particular merit, and as such, I am not of the opinion that its design or form should be replicated in this instance. The question therefore arises as to whether the building would be out of keeping. In my opinion, the building would clearly be different to those within the locality, however, these are of little aesthetic merit. This proposal would however, respect the pattern of development, in that it fronts the highway, and would be of a scale that would not dominate, or appear as incongruous within its setting. I am therefore satisfied that the proposal would respond positively to the character and appearance of the area.
- 5.4.3 Concern has been raised over the impact of the proposal upon the listed building opposite the application site. I am satisfied that due to the fact that the highway runs between the site, the distance between the properties (10metres) and the high hedge to the front of this dwelling, this proposal would not have a detrimental impact upon the setting of this building. There are few vistas where the two building would be seen from the same vantage point. These would only be obtained from the south-west of the application site, if looking across the road junction. The proposal would not significantly block views of this listed building from any public vantage point either. I would suggest however, that

location of this listed building reinforces the need for the development to be finished to a high standard, in accordance with PPS5.

- 5.4.4 There is currently a ragstone wall along the Stockett Lane frontage, which would be retained as part of this proposal. Amendments have been received that demonstrate that the bin storage area, to the rear of this wall, would also be constructed of this material, so as to appear in keeping with this feature.
- 5.4.5 The flat block at the rear of the site is of a more 'traditional' form and design. This incorporates a pitched roof, with dormer windows above garaging and car ports. This building would be set back a significant distance from the street (33m), and would only be visible through the car park, and through glimpses between the existing buildings in Heath Road. Whilst of a different form once more, I consider this more appropriate, as it allows for a less stark material to be used, and as such it is more likely to relate to the more residential properties to which it sits adjacent to. I am of the opinion that a white rendered building, set to the rear, would actually appear quite out of place.
- 5.4.6 I am therefore, not of the opinion that this element of the proposal would be to the detriment of the character and appearance of the area.
- 5.4.7 To conclude, I consider that this proposal (subject to a high level of detailing) would improve the character and appearance of this part of Coxheath. I acknowledge that the building is somewhat different to the surrounding area, but do not feel that it is of a scale, or form that would appear as incongruous, or detract from the setting of the listed building. The curved form of the building would create a elegant, yet strong appearance to this structure, that would reinforce the fact that the site is within the centre of a vibrant, large village. I am therefore satisfied that the proposal complies with the requirements of the Development Plan and PPS1.

5.5 **Residential Amenity**

- 5.5.1 The nearest residential property is that located to the north within Stockett Lane (number 1), which is set forward by some 12metres from the flats over garages, and 22metres to the north of the main building. This property is side on to the application site. The largest element of this proposal would be side on to this existing dwelling. Whilst this proposal would see an increase in the number of floors from two to three, as this proposal would incorporate a flat roof, the overall height of the building would not be dissimilar to that already in situ.
- 5.5.2 Concern has been raised by neighbouring properties with regards to the potential for the new development to result in overlooking to their properties. In particular, from the roof terraces proposed. The proposed roof terraces would be located so as to serve the flats within both the first and second floor of the

building. These roof terraces would be a minimum of 28metres from 1 Stockett Lane, and would be across the highway from the listed dwelling opposite the site, which is screened by a tall hedge. I do not consider therefore that this proposal would give rise to any significant overlooking of the neighbouring properties, by virtue of these distances, and their relationship with one another.

- 5.5.3 The flats proposed within the rear of the application site are much closer to 1 Stockett Lane. These are set approximately 1metre from the boundary with this property (although set some 33metres from the highway). As this building would be some 12metres from the rear wall of this property, and as there is a significant level of soft landscaping along this boundary (both within the application site, and the neighbouring property) I do not consider that this would give rise to the creation of a sense of enclosure to the occupiers of this property. In addition, this building would be provided with only roof lights along this elevation, which would not result in any significant overlooking of this neighbouring property.
- 5.5.4 I do not consider that the creation of a more formal car parking area to the rear of the site would result in an unacceptable level of noise and disturbance to the neighbouring occupiers.
- 5.5.5 I am therefore satisfied that the proposal would not have a detrimental impact upon the amenities of the occupiers of the neighbouring properties.

5.6 Highways

- 5.6.1 Kent Highway Services have raised no objections to the proposal, subject to conditions. At present there is a car park to the rear of the application site with approximately 10 parking spaces provided. This serves the public house and the shop on Heath Road.
- 5.6.2 This proposal would see the provision of a landscaped parking area (in place of the existing car park) which would accommodate a total of 17 car parking spaces (four of these are provided under the proposed flats). An area is also set aside for delivery vehicles within the car park. The position of the access is unaltered, although it is to be widened to 4.8metres.
- 5.6.3 Whilst this proposal would see the provision of some 10 flats, whose residents would be able to use the parking area, it is unlikely that these residents would be parked within these spaces all day. Indeed, the busiest time for the shop would be likely to be during normal working hours, when the resident's vehicles are least likely to require a space. I do not consider therefore, that this proposal would result in a significant loss of parking provision for the shop/public house. The Parish Council have raised concerns about the lack of parking provision, and in particular visitor parking within the development. However, Kent Highway

Services raise no objection to the parking provision. The site is located centrally within the village, and is well served by public transport. It is a local shop/public house to serve residents of the nearby residential area. Many of the customers of the proposed units would travel to the premises on foot. In any event, on-street parking is also restricted along both Stockett Lane and Heath Road, which would prevent an overspill onto this junction. I am therefore satisfied that the level of parking provision demonstrated is sufficient to ensure that there would be no detrimental impact upon highway safety.

- 5.6.4 This proposal also includes the provision of a delivery bay to the rear of the property. At present, deliveries to the store take place from the road, with the lorry parked within the highway. I consider that the inclusion of a delivery space to the rear to help alleviate this particular concern.
- 5.6.5 The access is being widened to ensure that there is a suitable width to allow for the delivery vehicles to enter and leave the site in a forward gear. This will also improve the existing pedestrian visibility splays to either side of the access. Whilst this would result in a larger area of hardstanding at the point of access, but I do not consider that this would be to the detriment of the character and appearance of the area, as it would be a minor change.
- 5.6.6 The Parish Council have requested that footpath improvements, and new high kerbs be introduced to the front of the application site. However there are existing parking restrictions (no parking) on this junction, and as such I do not consider it likely that this area would be used for this purpose. I do not therefore consider it appropriate to impose such a condition.
- 5.6.7 I am of the opinion that as the development is located centrally, with many of the customers of the retail unit and public house being within a walking distance of the site. I therefore consider it to be within a sustainable location. In addition, there is an increase in parking provision from the existing car park, which would enable the new flats to be accommodated. This, together with the existing parking restrictions in place, would ensure that this development would not give rise to any highway safety concerns. I am therefore satisfied that the development is acceptable in this respect.

5.7 **Landscaping**

- 5.7.1 Illustrative plans have been submitted showing the potential landscaping proposal for this development. This includes the provision of additional tree planting along the northern boundary of the application site, as well as tree planting facing Stockett Lane. The existing trees that are in good health are to be retained along this boundary. In addition, planting is proposed along the southern boundary of the application site, to the rear of the commercial and residential properties within Heath Road.

5.7.2 Although a full application, no full landscaping plans have been submitted to date – the applicant is willing to accept a condition addressing this matter – and as such I have recommended that a detailed condition be imposed that specifies that this planting form part of the overall landscaping provision. The submitted layout plans show that there would be landscaping along the northern and western boundaries, however, I feel it necessary to ensure that this is carefully controlled. This condition shall request that the following be provided:

- A buffer strip along the northern boundary of at least 1.5metres;
- A buffer strip along the western boundary of at least 1.5metres.

In terms of the species to be used, I am of the opinion that field maples (*Acer campestre*) would be an appropriate species to be planted along the edge of the car park. These would give a good variety of colour at differing times of the year.

5.7.3 Within the core of the site, I am satisfied that the details of planting can be provided at a later date should planning permission be granted. Should these details be submitted, I am satisfied that the development would be provided with a suitable level of landscaping, which would ensure that it would assimilate into the surrounding area appropriately.

5.8 Contributions

5.8.1 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Act. This has strict criteria that sets out that any obligation must meet the following requirements: -

It is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.8.2 This proposal includes the provision of contributions for the Primary Care Trust (PCT), Kent County Council (KCC), and for Maidstone Borough Council Parks and Open Space Department (POS). The applicant has been made aware of these requests, and has agreed, in writing, the heads of terms as set out below.

5.8.3 The PCT have requested that a contribution of £6,552 be provided to upgrade the existing facilities within the locality, to ensure that the additional demand placed upon this infrastructure can be accommodated. The PCT have confirmed that the money will be spent upgrading the nearby surgery within Stockett Lane (plans are currently being produced). Policy CF1 of the Local Plan states that

residential development that would generate a need for new community facilities will not be permitted unless the provision of new (or extended) facilities are provided, or unless a contribution towards such provision is made. I am of the opinion that the additional units being proposed here would give rise to additional demand upon the existing surgery, and that the money being requested is not excessive. I am therefore satisfied that this request for contributions complies with the three tests as set out above.

5.8.4 KCC have requested that the following contributions be made:

- £576.32 for additional bookstock for the local library;
- £557.81 for the additional youth and community workers (part thereof) required as a result of this development.

Again, I am satisfied that this request is in accordance with Policy CF1 of the Maidstone Borough Wide Local Plan (2000). KCC have identified that there would be (on average) an additional 4 people utilising the local library as a result of this proposal, and these would each (on average) borrow 27.52 books per year. In order to meet this additional demand, KCC have assessed the average bookstock, and use, as well as the cost of providing new books. This demonstrates that to provide these additional books over a three year period would cost £576.32. I consider this request to meet the tests set out above.

5.8.5 With regards to the request for youth and community workers, KCC have identified that the proposal would give rise to additional demand for such a provision. I consider that this request is justified, and that applicants have agreed to provide such a contribution. Again, I consider that this request meets the three tests as set out above, and as such, it is appropriate to require this contribution be made.

5.8.6 Maidstone Borough Council Parks and Open Space Officer was consulted and has requested that a contribution of £15,750 be made to improve the open space provision within the locality. It has been agreed that this money would be spent to improve the playing area within Stockett Lane, which is within a short walk of the application site. As all but one of the proposed residential units are two bedroom or more, I consider that they are capable of being suitable for family accommodation. I therefore am of the opinion that providing these contributions would not only be in accordance with the Councils adopted Development Plan Document (DPD) but the three tests set out above.

5.8.7 I am therefore satisfied that the contributions being sought, and agreed by the applicant are acceptable, and should be provided through a suitable legal agreement.

5.9 **Other Matters**

- 5.9.1 The applicant has demonstrated that the residential element of the development will be constructed to at least level 3 of the Code for Sustainable Homes. Likewise, the commercial units would be constructed to a very good BREEAM standard. Whilst there are no specific policy requirements to achieve a set level, I consider that the principle of PPS1, requiring any development to be constructed to a good standard of design necessitates that sustainable construction techniques be incorporated. I am satisfied that hitting this level of both the BREEAM and the Code for Sustainable Homes accords with this requirement for good quality design.
- 5.9.2 At present the site is used for commercial purposes, with buildings and hardstanding. There is a small area of open space to the rear of the site, which is currently grassed over. I am satisfied that the site is of limited ecological value, and that the redevelopment of the site gives rise to an opportunity to improve the biodiversity of the site through additional landscaping and the provision of a sedum roof. I will be requesting details of the planting within the sedum roof to ensure that this enhances the ecological value of the site as much as possible. I also consider it appropriate to suggest an informative asking for the applicant to consider the use of swift bricks and bat boxes within the construction of the development.
- 5.9.3 Whilst only a relatively small area of communal amenity space (40m²), containing grass and trees, has been provided, four of the flats would be provided with private terraces, and two with private gardens. There would only therefore be four flats that would not be provided with any outside space. As noted above, contributions are being sought for improvements to the local open space, which is only a short walk from the application site. I am therefore of the opinion that this lack of open space provision within the site would not be so significant as to warrant a refusal in this instance.
- 5.9.4 Concern has been raised with regards to the fact that services vehicles would not be forced by the planning permission to park to the rear. I do not consider that a condition of this nature would meet the tests of circular 11/95. Currently all loading and unloading takes place to the front of the store, and the provision of a loading bay to the rear would discourage this within the future.
- 5.9.5 The Parish Council have requested a condition that ensures that the garages proposed are retained for parking. I am suggesting a condition that removes pd rights for the removal of any parking spaces – garages included.
- 5.9.6 The Parish Council are also concerned about outside drinking, and lack of an outside smoking area. It is acknowledged that no outside space is provided, but this is currently the situation, and as such, this proposal would make this situation no worse.

5.9.7 No details of the signage have been submitted with this application. These would be subject to a separate advertisement consent, to be submitted at a later date. Likewise, there has been no details of drainage submitted to date.

6 CONCLUSION

6.0.1 To conclude, I consider that the proposal, whilst resulting in the loss of a building of a significant age (late Georgian period) would have an overall benefit to the character and appearance of the locality. In addition, the proposal would see the expansion of the existing shop, and the retention of a community facility (public house) which has been intermittently closed for a significant period of time. I therefore consider there to be significant benefits to the community of Coxheath. Whilst concern has been raised about the impact upon the neighbouring occupiers, I do not consider that this proposal would result in any significant overlooking, or overshadowing of these properties. I am satisfied that the proposal would comply with the requirements of both the Development Plan, and central government guidance, and as such, I recommend that Members give this application favourable consideration, and give the Head of Development Management delegated powers to approve subject to a suitable legal agreement, and the imposition of the conditions as set out below.

7 RECOMMENDATION

Subject to:

1. Contributions made to Kent County Council of £576.32 for the improvement of existing library stock within the locality;
2. Contributions made to Kent County Council of £557.81 towards the provision of youth and community workers within the locality;
3. Contributions of £15,750 for improvements of the open space within Stockett Lane;
4. Contributions made to the Primary Care Trust of £6,552 towards improving the facilities at the existing surgery within Stockett Lane.

The Head of Development Management BE GIVEN DELEGATED POWERS TO APPROVE subject to the following conditions and informatives:

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

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

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

Reason: To ensure a high quality appearance to the development in accordance with PPS1.

3. The development shall not commence until, details of the colour of the external finish of the buildings have been submitted to and approved in writing by the Local Planning Authority. The approved colour scheme shall be fully implemented before the first occupation of the buildings and thereafter maintained;

Reason: In the interest of a high quality finish of the development hereby permitted, in accordance with PPS1.

4. No structure, plant, equipment or machinery shall be placed, erected, or installed on or above the roof or on external walls without the prior approval in writing of the Local Planning Authority;

Reason: In the interest of a high quality finish of the development hereby permitted, in accordance with PPS1.

5. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with PPG13.

6. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include:

i) tree planting, where possible, along the northern boundary, and adjacent to Stockett Lane of a depth of at least 1.5metres;

- ii) tree planting, where possible, along the southern boundary of the application site of a minimum depth of 1.5metres; and
- iii) a living/green roof as shown on plan number DHA/7282/02;

together with indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and in the interests of visual amenity in accordance with PPS1 and Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

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

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

- 8. No development shall take place until details of any measures to prevent unauthorised use of the car parking spaces within the development have been submitted to and approved by the local planning authority.

Reason: No such details have been submitted and to ensure adequate parking provision is made for the development pursuant to policy T13 of the Maidstone Borough-Wide Local Plan 2000.

- 9. No external lighting shall be installed on the site without the prior written consent of the local planning authority.

Reason: In order to maintain the character and appearance of the site in accordance with Policy ENV49 of the Maidstone Borough-Wide Local Plan 2000.

- 10. No development shall take place until full details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the local planning authority;

- i) Details of windows and doors and recesses/reveals (which shall be a minimum of

100mm);

- ii) Details of the junction between the stonework and the render;
- iii) Details of the finish of the roof of the residential units and of the facade;
- iv) Details of junction of the cills of the windows and the render;
- v) Details of the balconies;
- vi) Details of the projecting bands.

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

Reason: To ensure a satisfactory external appearance to the building in the interests of the visual amenity and character of the surrounding area in accordance with PPS1.

11. No development shall take place until precise details (including the planting schedule) of the sedum roof are submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of the biodiversity of the application site, in accordance with PPS9.

12. No development shall take place until a detailed scheme for the retainment of areas of cordwood from any tree works within the site have been submitted to and approved in writing by the Local Planning Authority;

Reason: In the interest of biodiversity enhancement in accordance with PPS9.

13. No development shall take place until an independently verified report has been submitted to and approved in writing by the Local Planning Authority showing that the development achieves a minimum score of Level 3 or better for each residential unit under 'The Code for Sustainable Homes' and a BREEAM rating of VERY GOOD for the retail unit and public house/bar. The development shall be provided strictly in accordance with the approved report before it is occupied or brought into use.

Reason: to ensure a sustainable and energy efficient form of development in accordance with Kent Design 2000 and PPS1.

14. No development shall take place until details of the visibility splays of m x m to be provided on either side of the access have been provided to the local planning authority and approved in writing. Such details as are agreed shall be provided prior to the first occupation of any of the approved units (commercial or residential).

Reason: In the interests of highway safety, in accordance with PPG13.

15. No development shall take place until details of the cycle storage provision have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of ensuring a sustainable form of development in accordance with PPS1.

Informatives set out below

Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

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

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

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours, can not be highly stressed. Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

A scheme for the use of wheel cleaning, dust laying and road sweeping equipment shall be provided on site if required. This shall be implemented in its entirety once development has commenced, for the duration of demolition/construction works at the site.

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

No burning shall take place at the application site.

The developers shall provide adequate space within the application site for the parking/turning/unloading of contractors vehicles before any works commence on site. Such space shall thereafter be maintained during the construction process where practicable.

REASON FOR APPROVAL

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

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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1384

GRID REF: TQ7155

**HERMITAGE QUARRY,
HERMITAGE LANE, MAIDSTONE.**

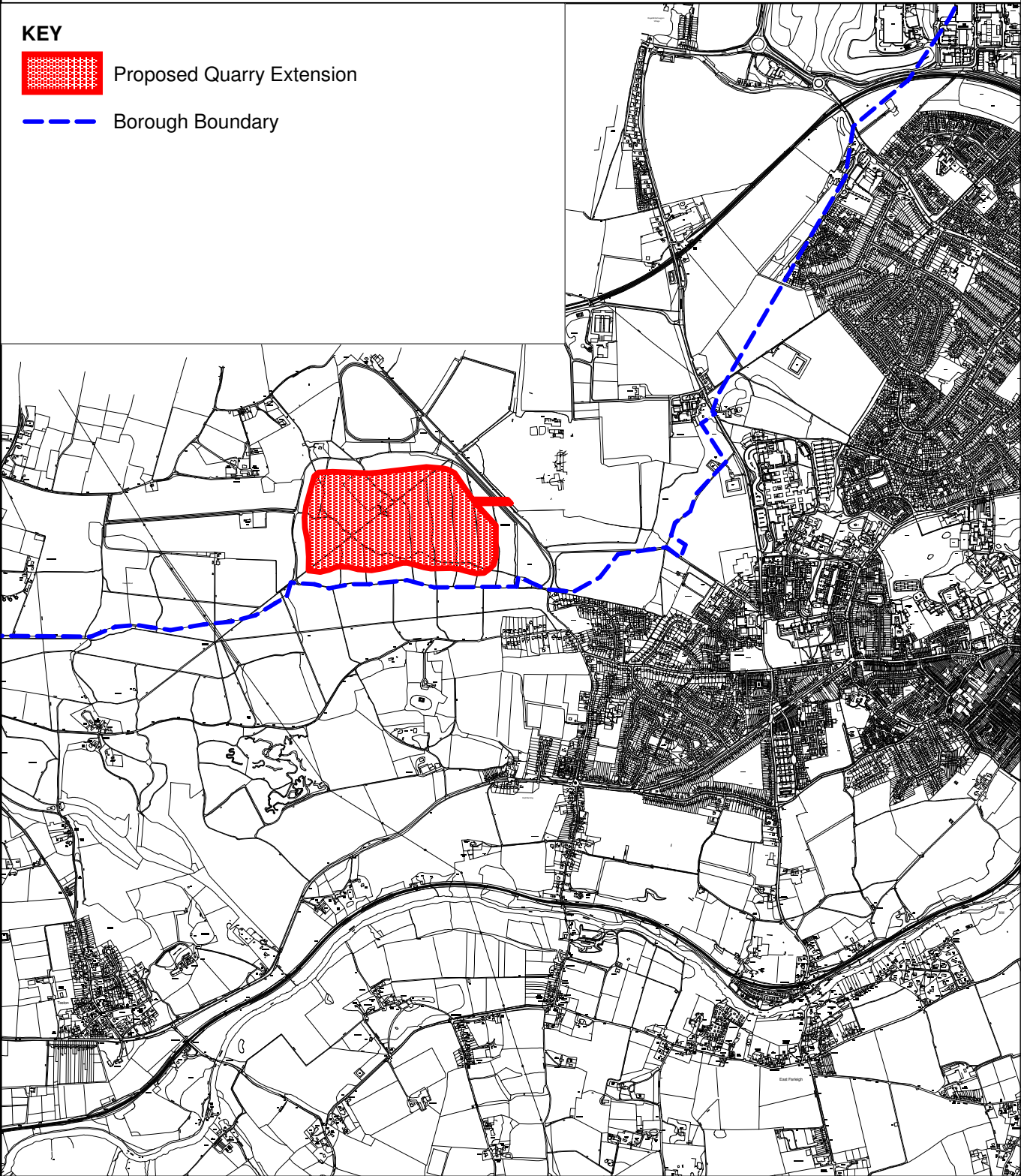
KEY



Proposed Quarry Extension



Borough Boundary



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/1384 Date: 5 August 2010 Received: 9 August 2010
APPLICANT: Gallagher Aggregates Ltd
LOCATION: HERMITAGE QUARRY, HERMITAGE LANE, MAIDSTONE, KENT
PARISH: Not in Borough Area
PROPOSAL: A consultation with Maidstone Borough Council by Kent County Council for proposed westerly extension to Hermitage Quarry
AGENDA DATE: 25th November 2010
CASE OFFICER: Amanda Marks

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

- it is an application of public interest

1 POLICIES

Government Policy: PPS1; PPS7; PPS9; MPS1; MPS2; MPG7
South East Plan: M1, M2, M3, M4, M5, NRM5, NRM7, CC1, CC2
KCC Minerals Plan 1983 (saved policies): CA7, CA8, CA16, CA18, CA21, CA22, CA23

2 HISTORY

There is an extensive planning history substantially relating to applications for mineral extraction on the existing Hermitage Quarry site. The two most relevant to this application is the original grant of planning permission in 1989; and one refused in 1995 which was for an extension to the quarry on a footprint not dissimilar to the current application. The original area has now been restored to agricultural land at former levels.

In 1996 a southern extension was granted and has largely been extracted. This area now comprises the materials processing area as well as the main infill area. A western extension was granted in 1999 and remains to be worked. A south eastern extension granted in 2005 is currently the main extraction area.

3 CONSULTATIONS (undertaken by KCC)

- 3.1 **Barming Parish Council:** would like to see the application refused for the following reasons "The proposed area is designated as ancient woodland by

various reputable organisations including the Kent Wildlife Trust. There are areas of TPOs within the woodland and some oak trees are reputedly over 100 years in age. The destruction of such an important habitat site is not justified to create a new quarry.

The lives of many existing species of wildlife will be put at risk. The phased working and restoration programme assumes wildlife will exist in newly planted woodland. Given that it takes seven years for trees to be of wildlife value, the first phase will not be sufficiently re-established by the time the next phase is quarried. Neither can it be certain that the wildlife will somehow transfer itself to the relocation site. The destruction of the woodland will unbalance the eco-system of the whole of Oaken Wood and will change the landscape irrevocably. GAL have not demonstrated that the proposed benefits of restoration override the need to safeguard the nature conservation value of the site – enjoyed and appreciated by many local residents – or that adverse impacts of workings can be adequately compensated.

The Council believes this application should be treated as a new application rather than an extension to the existing quarry, because it is the working of a new site.

The Council is very mindful of local residents concerns of noise and dust of operations continuing for a further 25 years, and in particular the accumulative affects of blasting of their homes, as clearly expressed at the public meeting at Barming School in June. This issue has not been addressed within the proposal documents.

For these reasons Barming Parish Council does not support this application.

However, if the County Planning Authority is minded to approve the application, Barming Parish Council would wish to see the following additional conditions imposed:

- a) Satisfactory safety fencing and signage around the perimeter of the site being worked;
- a) Land to be restored to original levels and contours;
- b) Monitoring of pace and return of wildlife on the restored land at regular intervals by an independent body such as Kent Wildlife Trust;
- c) An appropriate and enforceable S106 agreement to secure the completion of site restoration;
- d) Controls over noise and vibrations from the machinery currently 7.00am – 5.30pm;
- e) No maintenance to be carried out at weekends or bank holidays; week day working hours not to be increased;
- f) Strict adherence to week day working hours;

- g) Extension of the bund in the corner nearest North Pole Road to further mitigate noise and dust levels and the effects of blasting
- h) Increase perimeter stand off from 50 to 70 metres to further mitigate noise and dust levels and the effects of blasting;
- i) Controls over blasting times;
- j) Monitor and change direction of blasting to reduce air over pressure
- k) Delay blasting on cloudy days to reduce air over pressure."

3.2 **MBC Landscape Officer:** "The proposed quarry extension will impact upon woodland identified in the Provisional Inventory of Kent's Ancient Woodland, revised 1994, as ancient semi-natural woodland and protected under a Tree Preservation Order designated by Tonbridge and Malling Borough Council in 1993. The woodland comprises mainly Sweet Chestnut coppice with Silver Birch, Oak, Ash, Hornbeam and Hazel. The grounds for the making of the order were the significant amenity value of the woodland, its visual prominence in the landscape and its nature conservation value. It also a Local Wildlife Site, MA12, designated because it is a large block of ancient woodland which is important for a range of Taxa.

As stated in PPS9 ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. Planning permission should not be granted for any development that would result in its loss or deterioration unless the need for, and benefits of, the development in that location outweigh the loss of the woodland habitat.

Where granting planning permission would result in significant harm to this resource, planning authorities should be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, before planning permission is granted, there should be evidence that adequate mitigation measures can be put in place. Where a planning decision would result in significant harm, which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

The Council's adopted Landscape Character Assessment and Landscape Guidelines, 2000 confirms that this Council seeks to retain and increase the existing level of woodland cover, whatever its use, to avoid the neglect of established woodland and to achieve effective management throughout the Borough. Development within ancient woodland will be resisted. Any development proposals affecting or including existing woodlands should only be permitted where overriding need can be demonstrated.

If, however, the County is minded to grant consent for this development proposal it should be satisfied that there are sufficient details and agreements put in place to partially mitigate the effects of the development on ancient woodland as stated in Natural England's Ancient Woodland standing advice, issued 23 February 2009, and as outlined below:-

Where the integrity of ancient woodland adjacent to the proposed development site is to be retained, a minimum buffer of at least 15 metres in width should be maintained between the retained ancient woodland and development boundary.

Topsoil should be translocated from ancient woodland areas to preserve existing seedbank.

Approve a long term management plan for the woodland and identified wildlife features (such as hedgerows, etc.) together with the new planting proposals to ensure long term viability.

Approve maintenance schedules to ensure connectivity of woodland (including maintenance and enhancement of hedgerows, copses).

Ensure mechanisms are put in place for the control of pollution/maintenance of hydrology.

I would also add, in response to the applicant's request in paragraph 6.17 of the Planning and Environmental Statement that 'KCC is asked to delete the restrictive requirements of the TPO...'. This is not a County function and it would mean that the TPO would need to be revoked. If consent is granted for this application, appropriate tree protection details and detailed arboricultural method statements should be approved for all tree work at the outset, which would then override the need to obtain separate consent. The TPO could then potentially be revoked and remade at the end of implementation to cover all the remaining woodland together with the new landscaping. Long term management proposals for the whole site could then be applied for, negating the need for multiple future applications."

- 3.3 **EHO Officer:** This department receives occasional calls from residents concerning blasting from the quarry and its alleged effect on their properties. Extensive investigations have been carried out, but no evidence of a statutory nuisance has yet been obtained. As part of their existing permission the quarry is required to telephone certain specified contacts (including myself) to warn that they intend to blast on a particular date and time. This happens a maximum of two occasions per week at either 13.00 or 13.15 hrs. This proposal for a westerly expansion of the quarry will have no effect on the existing permission or on the vibration. The issue of dust nuisance has also been investigated and the quarry operators have

been told about the measures they need to employ to reduce dust emissions. Again, the position of this proposed new quarry will not impact on this issue.

4 REPRESENTATIONS

I understand that over 200 letters of objection have been received by KCC objecting on the following grounds:

- Loss of ancient woodland, an SSSI and Local Wildlife Site;
- Irrevocable harm to flora and fauna;
- Loss of habitat to protected species;
- Loss of valuable coppiced woodland;
- Noise, dust, light pollution and increase in carbon levels;
- Loss of PRow, historic landscape and character of area;

5 CONSIDERATIONS

This is an application currently under consideration by Kent County Council as the Minerals Planning Authority for an extension to an existing quarry. Maidstone Borough Council has been consulted for their views as a neighbour of Tonbridge & Malling BC, which is where all of the site is located. None of the red line area is within MBC. The responsibility for the determination of the application therefore falls to KCC who have a duty to assess the strategic implications of the proposal in light of Minerals legislation and guidance, together with all other material planning considerations. A site visit and public meeting is scheduled for the 7 December to be undertaken by KCC, Members of the Planning Applications Committee and members of the public.

5.1 Site Description

5.1.1 The application site is in the open countryside to the west of the existing Hermitage Quarry, Hermitage Lane. The site boundary is entirely within Tonbridge & Malling Borough – approximately 50m north of the Borough boundary, however, aside from the occasional individual farm or dwelling to the north/north west, the closest residential area is Barming Heath to the south-east which is within Maidstone Borough. These dwellings are in the region of 240m from the existing quarry. The new quarry is further away from the majority of dwellings – the closest being within 280m in North Pole Road. The site falls within the Hermitage Farm Estate which totals 230 hectares around the existing quarry. The estate comprises a mix of cattle grazing, woodland with arable and farm buildings.

5.1.2 The application site lies in the north east corner of Oaken Wood. The proposed quarry area is largely dense sweet chestnut coppice woodland designated by Kent Wildlife Trust as a Local Wildlife Site; it is subject in part to a Tree

Preservation Order served in 1993 by Tonbridge & Malling BC; and includes area defined as Ancient Woodland. The proposed quarry is on land entirely within the ownership of the applicant. A permissive circular footpath has been provided through the woodland which is currently regularly used by walkers, joggers, horse-riders and cyclists. There is also a PRow which crosses the proposed site of the quarry – I understand that an application has already been lodged with KCC to divert this.

5.2 **Proposal**

5.2.1 Permission is sought to extend the life of the quarry for a further 23 years. In addition to a Planning Statement, the application includes an Environmental Statement and associated application drawings. The minerals/stone to be quarried are ragstone and hassock from an area 33.14 hectares in size. It is proposed that work would commence in 2012 with an end date of 2035 for extraction and 2037 for completed restoration. As this is an existing quarry there are no new proposals for plant and machinery as it is intended to use the existing processing plant on site.

5.2.2 The following matters are addressed in the Planning Statement:

- The site and location
- The proposed development
- An examination of the national, regional and local planning policies
- The need for the proposed development
- A consideration of alternatives
- Justification for the proposal

5.2.3 To be considered in conjunction with the Planning Statement is the Environmental Statement which covers the following topics:

- The development proposal
- Soils, overburden & geology
- Water & hydrology
- Ecology and nature conservation
- Restoration, aftercare, habitat creation & enhancement
- Landscape & visual impact
- Historic woodland & heritage
- Blasting & vibration
- Noise assessment
- Dust & air quality
- Traffic Impact Statement
- Quarry design, phasing & implementation
- Non technical summary

- 5.2.3 It is proposed to link the existing and proposed quarry by a low level access track or tunnel. The current quarry has approximately 4 years of reserves remaining assuming extraction continues at the current rate. A minimum 50 metre wide strip of woodland will be left in-situ between the circular path and the proposed quarry to protect path users from visual intrusion of the quarry. Where the woodland meets the quarry face there would be a minimum drop of 30 metres.
- 5.2.4 As per the existing quarry operation, it is intended to extract in phases, therefore as each area has been exhausted of materials then restoration would commence. Clearly restoration is a lengthy process in terms of seeing and benefiting from the end result. It is proposed to operate smaller parcels of land at each phase than the existing quarry, in order that the minimum of land is disturbed at any one time for quarrying, infilling and restoration. Full details of the phasing plans are included in the application; in brief when the land is finished with it will be returned to mixed native woodland and shrub. It is also proposed that a wildlife/ecological corridor will be incorporated into the scheme; access to the quarry will be beneath this.
- 5.2.5 The application includes plans for a 'Habitat Creation Field' which would be a site of 22 acres along North Pole Road and within Maidstone Borough Council. It is suggested that given time, this new site could be incorporated within the existing Local Wildlife Site as designated by T&MBC. The species identified within the ES such as reptiles and amphibians, would be relocated to the 'HCF' and in time a new habitat would be formed.

5.3 **Principle of Development/Case for Need**

- 5.3.1 Development in the countryside is restricted by the terms of Development Plan. The planning statement considers the need for the proposed quarry extension. The South East Plan requires a landbank of locally won crushed rock at a regional apportionment of 2.2 mtpa – 1.2mtpa of which should be sourced from Kent. Difficulty arises in assessing the value/volume of rock sales as such information is confidential.
- 5.3.2 Estimates of a landbank are provided by KCC and it seems that since planning permission was granted in 1994 for Blaize Quarry, Kent has benefited from a large landbank. The applicant has put forward the case that the exceptional quality of material at Hermitage Quarry versus the poor quality of material from Blaize, means that in reality hermitage provides 74% of crushed rock production. Due to the poor output of Blaize i.e. 0.225 mtpa versus 0.62mtpa at Hermitage, it is argued that the landbank reserves cannot be relied upon. In short, Hermitage is the only realistic option to meet the ragstone indicators.
- 5.3.3 It is stated that with Kent being an area of growth and regeneration there will

be 'significant future increases in demand' for construction aggregates. This view is partly based on the KCC document '21st Century Kent: A blueprint for the future'. The applicant states that 'The permitted reserves of ragstone are in the two quarries at Hermitage and Blaize. At current production rates Hermitage Quarry will be exhausted within 4 years whilst Blaize could last for 140 years. Hermitage produces almost 3 times the Blaize output.'

- 5.3.4 On a national level in addition to the Planning Policy Statements (PPS'), there are also Mineral Planning Statements (MPS') of which there are a number that should be read in conjunction with this application. It is the role of KCC to analyse the relevant minerals planning policy and guidance in relation to their position with regard to plan making.
- 5.3.5 The Government has advised Minerals Planning Authorities in the region to work to the apportionment set out in the revised Policy M3 of the South East Plan. The most recent revision being that as of 19 March 2010. The supporting text recognises the benefits of extensions to existing sites in the short term, but puts the onus on the County Council to assess the sustainability effects of such proposals. Policy M3 requires the Minerals Planning Authorities to maintain landbanks of between 7 and 10 years depending on the nature of material to be extracted and states that **"The sub-regional apportionments for both sand and gravel, and for crushed rock, will be subject to testing of deliverability in the preparation of minerals development documents, including through sustainability appraisal and Habitats Regulations Assessment."**
- 5.3.6 KCC does also have the 'County Minerals Plan' to fall back on, however this dates back to 1993. Whilst some of the policies in this plan have been 'saved', clearly the document is somewhat dated and of limited assistance. The document does not allocate the application site as a minerals site. A past attempt at replacing this old style plan was in 2006; however the intended document was withdrawn – neither the old plan nor the proposed included the application site in the search area. The County is working on a new Minerals Development Framework which will include a full review of the industry's requirements and supply. Such a document when complete may then provide support for this application; or it may find the need is simply not there.
- 5.3.7 It is apparent from the raft of information presented through the Environmental Statement (ES), that the loss to the environment as a result of this proposal has been given detailed consideration. It is for KCC to balance whether the proposed extension to Hermitage Quarry is in accordance with current guidance on minerals development; is necessary/at this time; and whether the benefits of a further 23 year ragstone and hassock supply outweigh the environmental implications of the scheme.

5.4 **Determining Issues**

Visual Impact/Ecological and Landscape Loss

- 5.4.1 One of the key issues in determining this application is the balance between nature conservation interests and minerals interests. Without a doubt, should the proposal succeed then areas of Ancient Woodland will be lost, habitats will be disturbed and the landscape will change. This needs to be balanced against the economic need on a local and regional level, and the decision as to whether through protection, enhancement and mitigation the future ecological value of the area can be secured for generations to come.
- 5.4.2 The ES findings indicate that the woodland is considered Ancient Replanted Woodland which is of lower ecological value than Ancient Semi-Natural Woodland. The study contends that the land was formerly agricultural prior to be planted with the chestnut coppice and questions whether the designation is in fact correct. Natural England will be a consultee on this application and can comment accordingly.
- 5.4.3 The 50m strip of woodland to be maintained between the circular track and the proposed quarry will ensure that current users of the path will not be able to gain access to the quarrying areas or have site of the activities being undertaken. The woodland is as mentioned, dense, which makes it difficult to see very far into the woodland. The comprehensive ES considers the detailed matters of ecology, landscape and mitigation and this will be subject to scrutiny by KCC and the relevant consultees.
- 5.4.4 The views of the MBC landscape officer are set out in full above. I support their comments. In visual terms, despite the scale of the proposal, there is limited impact. Close range views of the quarry extension, as mentioned, are screened by Oaken Wood. The minimum retained 50m tree belt will provide a continuous dense screen – even taking into account the coppicing programme. Medium distance views are also obscured due to the proposed quarry being located on the north facing slope – hence no views from the south. It is also not possible to view the site from the east, west or north due to extensive woodland and shrub. In order to see the proposed site you would need to go to Bluebell Hill, Trosley Country Park and Holly Hill and binoculars would be needed. These views are at a distance of 4.4 miles.

5.5 **Residential Amenity**

- 5.5.1 Current operating hours of the quarry are 0700 – 1800 Monday to Friday and Saturday 0700 to 1300. No variation of the planning condition which applies these hours is sought.

5.5.2 Blasts are also restricted by planning condition to no more than 5 in one week. Blasting must take place between 13.00 and 13.10 hrs. The documentation in the application states that generally blasting takes place 3 times a week and that the generated noise level is recorded at well below the limits set by KCC.

5.5.3 I understand that the noise and dust, together with vibration concerns local residents in Barming greatly. The concern is accumulative damage to their properties. I also note that Barming Parish Council have requested the 50m woodland buffer zone between the circular path and the proposed quarry be increased to 70m. MBC's Environmental Health Manager is familiar with the practices of the quarry and has been present in a resident's property at the time of a blast. Whilst I have sympathy with the residents that are affected, and also understand their frustration when the Planning Statement makes reference to 'perceived effects', I am advised by the EHO that the quarry operators often fall well within the statutory noise limits and there is no grounds to object to the current application due to noise or dust issues.

5.6 Highways

5.6.1 No changes are proposed to the current access onto Hermitage Lane or to the pattern and number of vehicles entering and leaving the site. It is for KCC to ensure that this is in fact the case and that the relevant planning conditions continue to be applied to this extension of the site should it succeed.

5.7 Alternative Sites

5.7.1 The application includes an assessment of other sites and areas which provide ragstone across the region. However, it seems the issue is not simply whether ragstone is present it is the percentage/quality that can be obtained from the ground. One quarry, the obvious competitor, is cited as being unviable that of 'Blaize Quarry' as there is as much hassock as ragstone in the ground; the quarry had to be moth balled for 18mths and has constraints that limit its output.

5.7.2 It is maintained in the supporting information, that an extension to Hermitage Quarry is considered the best site for quality and yield. It is for KCC as the Minerals Planning Authority to consider whether this is the case and that if so, the significant environmental cost of the quarry can be accepted due to this overriding need. At present KCC are out at consultation on their 'Issues & Options' report and possible sites can be kept confidential at this stage. The target for adoption of the MDF is 2012 with a sites DPD following 1 year later.

5.8 Conclusion

In my opinion the determination of this application is focused on whether there is sufficient justification and demonstrated need for the quarry extension when balanced against the ecological impact, together with how this fits into current policy and guidance on the determination of Minerals planning applications. At the present time the relevant /up-to-date policy base to assess this application does not appear to be in place. My concern is whether a sufficient case has been put forward to override the environmental impact of the proposal in light of the apparent lack of specific policy support. Kent County Council will need to be satisfied that a sound case has been put forward to justify the proposal together with an acceptable scheme of restoration to ensure the long term ecological and landscape value of the area. The fact that the application site does not fall within MBC or therefore subject to MBC policy designations; and that there are no EHO objections with regard to impact on MBC residents leads me to conclude that the determining issue is justification. The case appears weak in terms of policy framework and economic need. I therefore consider that MBC should raise objection at this time until Kent County Council is satisfied that the application is not premature in policy terms and that the case for further quarrying in this locality overrides the extent of works necessary to the protected flora and fauna.

RECOMMENDATION

Raise Objection on the following grounds:

1. The proposal is considered premature due to the incomplete status of the Minerals Development Framework, the application should be resisted at this time unless the County is satisfied there is a current, overriding and demonstrable need for the material that cannot be met elsewhere.
2. On arboricultural grounds the application for a proposed westerly extension to Hermitage Quarry should be resisted unless the County is satisfied that the application fulfils the criteria set out within PPS9 for granting planning consent within ancient woodland and complies with Natural England's Ancient Woodland Standing Advice.

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.



SUMMER

View 15

225



WINTER

View 15

VIEW 15 - View from the eastern end of Trosley Country Park on the North Downs Scarp slope. Oaken Wood and the existing quarry are 9km away and cannot be distinguished at this distance.



Existing quarry
(Maximum extent)



Proposed quarry
(Maximum extent)



SUMMER

View 16

226



Existing quarry
(Maximum extent)



Proposed quarry
(Maximum extent)

WINTER

View 16

VIEW 16 - Taken from White Horse Road, 8km north west of the site. Overlooks agricultural land, sloping down towards the site. Aylesford Print site is just visible as white sections within the middle distance of the photograph. Oaken Wood and Hermitage Quarry are not visible in the long distance from this view.



SUMMER

View 17

227



WINTER

View 17

VIEW 17 - Taken from the lower slopes of Birling Hill, overlooking the M20, A20 and above Larkfield and Ditton. Aylesford Print site is visible in the middle distance as large white sections, both in summer and winter. The proposed quarry at 7.5km is not visible in the far distance of this view.



SUMMER

View 18



WINTER

View 18

228

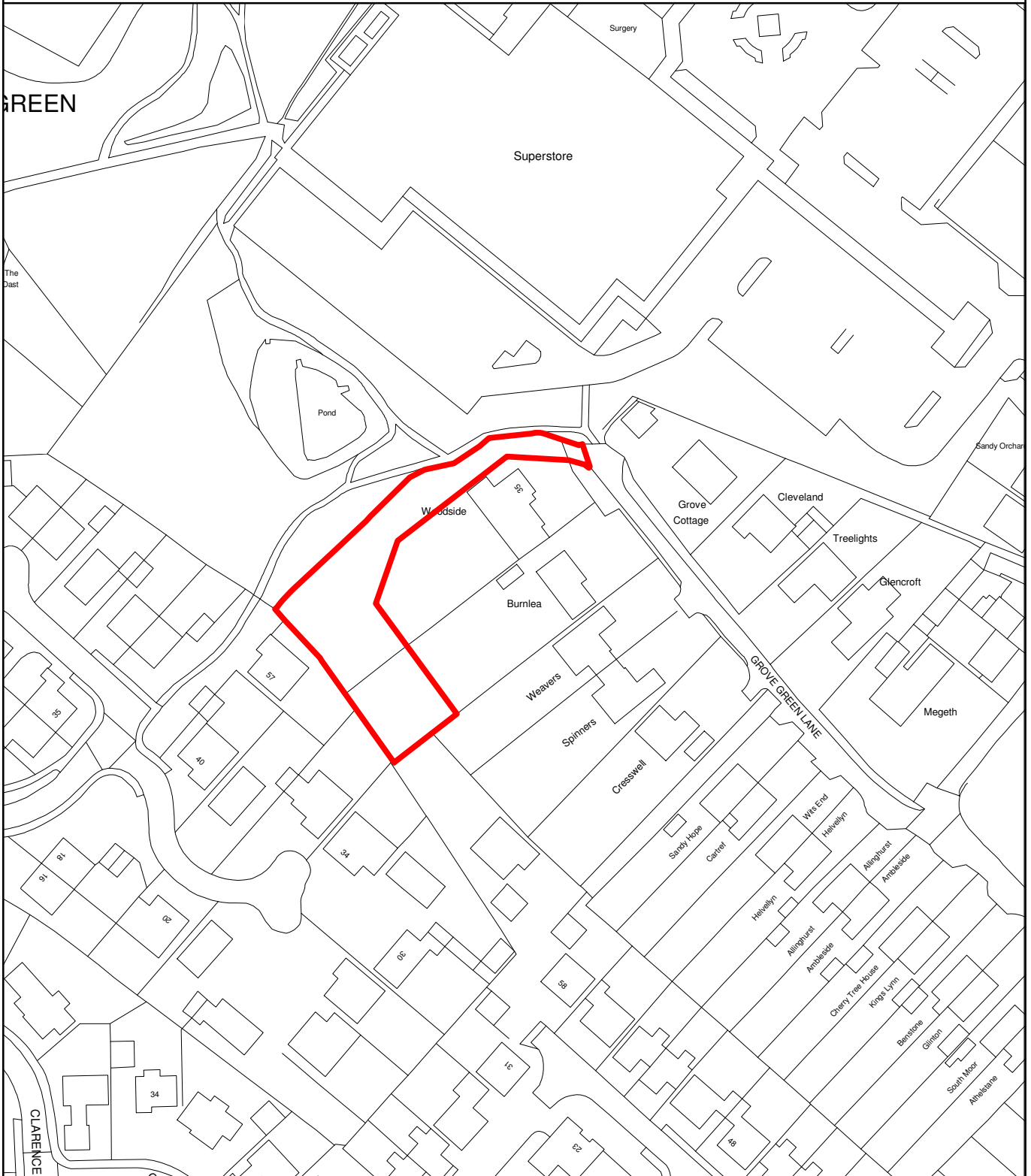
VIEW 18 - View from Blue Bell Hill picnic site off Robin Hood Lane, on the North Downs Scarp slope. Oaken Wood cannot readily be distinguished at the distance of 7km.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1674

GRID REF: TQ7856

**PLOT 2 LAND REAR OF BURNLEA AND WOODSIDE,
GROVE GREEN LANE, WEAVERING.**



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/1674 Date: 24 September 2010 Received: 12 November 2010

APPLICANT: Mr G Hicks

LOCATION: PLOT 2 LAND REAR OF OF BURNLEA AND WOODSIDE, GROVE GREEN LANE, WEAVERING, KENT, ME14 5JW

PARISH: Boxley

PROPOSAL: Construction of new dwelling with associated amenity space, access and parking as shown on drawing numbers 1261-002 and 1261-2-200 rev A supported by a design and access statement, great crested newt survey and ecological scoping survey, all received 24th September 2010.

AGENDA DATE: 25th November 2010

CASE OFFICER: Catherine Slade

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

- it is contrary to views expressed by the Parish Council

1 POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
South East Plan 2009: SP3, CC1, CC6, T4, NRM7
Government Policy: PPS1 Delivering Sustainable Development, PPS3 Housing, PPS9 Biodiversity and Geological Conservation, PPG13 Transport

2 HISTORY

The properties 'Burnlea' and 'Woodside' have been the subject of applications for householder development, however, these are not relevant to the current application. The planning history relating to the erection of dwellings to the rear of Burnlea and Woodside is summarised below. The current application relates to Plot 2.

MA/10/1673 Construction of new dwelling with associated amenity space, access and parking (Plot 1) – CURRENTLY UNDER CONSIDERATION

MA/10/1212 Erection of 1 dwelling with associated amenity space, access and parking (Plot 2) - WITHDRAWN

MA/10/1182 Erection of 1 new dwelling with associated amenity space, access and parking (Plot 1) - WITHDRAWN

MA/09/1894 Outline planning application for erection of 2 dwellings with access to be considered at this stage and all other matters reserved for future consideration – APPROVED WITH CONDITIONS 19th December 2009

3 CONSULTATIONS

3.1 **Boxley Parish Council:** wish to see the application refused on the following grounds:

"The height and bulk of the development would have detrimental impact on the area and surrounding residents. It is recognised that some changes have been made to reduce the height and impact but the area is predominantly bungalows and this design is significantly bigger than the surrounding buildings.

There are serious concerns about the sewerage pump station and the Planning Officer is asked to satisfy herself that will be no noise pollution, etc. coming from the proposed set up."

3.2 **Natural England:** Declined to comment on the application on the grounds that the application does not meet the criteria for direct involvement in casework and referred the Local Planning Authority to draft standing advice on the Natural England website.

3.3 **Kent Highway Services:** Raise no objection to the proposal.

3.4 **MBC Environmental Health Manager:** Raises no objection to the proposal subject to informatives relating to the construction period.

3.5 **MBC Landscape Officer:** Raises no objection to the proposal subject to conditions relating to tree protection and landscaping.

4 REPRESENTATIONS

4.1 One representation was received objecting to the proposal on the following grounds:

- Loss of privacy.
- Harm to residential amenity arising from noise and pollution.
- The design, scale, appearance, height and siting of the development.
- Failure to include perspective views of the rear of the proposed development in the application documentation.

- Views of residents on Restharrow Road have not been afforded equal consideration.

5 CONSIDERATIONS

a. Site Description

- 5.1.1 The application relates to the south western-most part of the long rear gardens of two detached neighbouring properties on the west side of Grove Green Lane. 'Woodside' (a chalet bungalow) to the north and 'Burnlea' (a bungalow) to the south. The bungalows 57 and 36 Wingrove Drive and their gardens adjoin the west boundary of the site.
- 5.1.2 Outline planning permission with access has previously been granted for two detached chalet style houses (i.e. with habitable accommodation in the roof space) under application MA/09/1894 in the rear gardens. That application included the site outlined for this application for one house and land immediately northeast for the other. This permission is extant and expires on 16th December 2012 (the Committee report is attached as an Appendix). There are now two separate detailed applications for each of these approved sites being referred to as Plots 1 and 2. This application relates to Plot 2 which is the south-western plot and application MA/10/1673 relates to the adjacent Plot 1. Both plots are in the same ownership.
- 5.1.3 The land here generally slopes down to the south and west and both rear gardens are characterised by lawns with trees and bushes, particularly around the boundaries. To the north west of the site is an area of woodland, which is protected by TPO 5 of 2005 (mixed woodland consisting of sycamore, ash, horse chestnut, oak, hazel and silver birch) and within the woodland is a pond. This TPO extends 6m into the site and covers a number of trees within the site, notably two mature oak trees to the north of the proposed dwelling. In addition to this woodland there are 3 individual protected trees immediately north and northeast of the site near to 'Woodside' under TPO 14 of 2010 (T1 – sycamore T2 – sweet chestnut and T3 – horse chestnut).
- 5.1.4 The site includes a vehicular access to Grove Green Lane to the north west of Woodside, which would be shared with Plot 1.
- 5.1.5 The site is in a built up area within the defined urban boundary of Maidstone within the Grove Green Estate. The surrounding land uses are predominantly residential with the notable exception of the Grove Green Tesco store located approximately 80m to the north of the site. The area is characterised by mainly substantial detached bungalows and chalet bungalows of mixed age to the north east of the site, whilst those to the south of the site are more modest detached single storey dwellings dating from the 1980's.

5.1.6 A footpath located in close proximity to the north west boundary of the site runs through the woodland between Wingrove Drive and the supermarket. This joins the public footpath KH2 which links Grove Green Lane with land within the Grove Green Conservation Area, which is located approximately 65m to the north west of the proposal site. There are no listed buildings within close proximity of the site.

5.1.7 The proposal site was landscaped at the time of the site visit, although the land has now been cleared.

5.2 **Proposal**

5.2.1 The proposed development is the erection of a detached chalet bungalow (i.e. rooms in the roof space). The proposed dwelling would have an L-shaped footprint with the straight elevation to the front (north west) of the property. The existing houses 'Woodside' and 'Burnlea' would remain with the new dwelling some 33m from Woodside.

5.2.2 The building would be sited centrally within the site, providing a rear garden with a depth of approximately 18m. The building would be approximately 0.5m from the site boundary of the site with proposed Plot 1, and 0.75m from the site boundary with the neighbouring property to the south, 57 Wingrove Drive.

5.2.3 The proposed dwelling would have a length of 13.5m and maximum width of 10.8m. The roof ridge would run from north east to south west with a height of 7.2m. To the front the roof would overhang the front wall of the house with an eaves height of 2.3m. The eaves line at the rear would be higher at 3.3m. The roof would be half hipped, with eaves on the sides of 4.7m.

5.2.4 Access would be via a shingle driveway 3.5m wide along the north side of the site which would lead to the dwelling where there would be a parking area outside. Two cars could potentially park outside the house and one in an integral garage.

5.2.5 The residential accommodation would be provided over two floors, and would comprise a lounge, kitchen, dining room, study, utility room, W.C., hall and garage at ground floor level and four bedrooms (one en suite) and a bath room at first floor level. The first floor accommodation would be achieved through the introduction of three dormer windows and two roof lights to the north west elevation and a flank window to a gable end, a dormer and a roof light to the south east elevation. A first floor obscure glazed window is proposed to the hipped flank to the north east elevation.

5.2.6 The proposed materials to the external elevations are set out in Section 9 of the application form, and comprise stock bricks, plain tiles and white uPVC joinery.

5.3 **Principle of Development**

5.3.1 Outline planning permission was granted in December 2009 at Planning Committee for the erection of two 1.5 storey houses under MA/09/1894. As such, the principle of residential development on the site was accepted. Copies of the indicative site plan and front elevations (drawing numbers DHA/7272/03 and DHA/727/04) and officer report approved under MA/09/1894 are attached as Appendix 2.

5.3.2 However, since that decision, PPS3: *Housing* was revised in June 2010 which contains two changes:

- The reclassification of private garden land to now be excluded from the definition of previously developed land; and
- The removal of the national minimum density target for housing development of 30 dwellings per hectare.

5.3.3 The effect is to remove a presumption in favour of development of garden land. The 'old' PPS3 didn't allow for the development of all garden sites, however, and as a corollary, I do not consider that the amended PPS3 means that all development in gardens should now be refused. Each application must be judged on its own merits and I will assess the development in light of these changes below.

5.4 **Visual Impact**

5.4.1 Public views of the rear garden are limited as it is surrounded by private residential gardens and properties on three sides, and by an area of protected woodland to the north. For this reason, I do not consider it provides an important or strong contribution to the appearance of the area as it can't be seen in the wider landscape. Development within the rear garden to my mind would have a limited visual impact upon the area or the streetscene within Grove Green Lane and for this reason, and bearing in mind the PPS3 changes, I consider the principle of developing this greenfield site to be acceptable.

5.4.2 Turning to the scale of the dwelling, whilst the majority of the buildings in the immediate vicinity of the site are bungalows, there are examples of nearby chalet bungalows with dormers of a similar scale and bulk of that proposed. These include Woodside, immediately north east of the site and Grove Cottage, which fronts onto Grove Green Lane immediately opposite the access. It is

therefore considered that the introduction of a chalet bungalow would not be out of keeping with houses in the area.

5.4.3 In terms of design, an informative was attached to the previous outline permission stating,

The developers should ensure that the details submitted pursuant to condition 1 show a development of good design as the submitted illustrative elevation does not represent a sufficiently high quality design for the dwellings. The design should reflect the character of the historic features of Grove Green.

5.4.4 Houses in the area date from the mid and late twentieth century with Grove Green Lane pre-dating the surrounding development that was built in the 1980's so consequently there a mix of house designs. Whilst the design of the dwelling is simple in terms of its form and level of detailing, this is also the case for other houses within the vicinity. The partially hipped main roof and dormers are also features present on other bungalows on Grove Green Lane so there is some reflection of local character here. There are a mixture of materials within the area including red/brown and yellow bricks, white paint and various roof tiles. The materials proposed being red/brown stock bricks as shown on the plans and plain tiles would therefore generally be in keeping with the mix of other buildings.

5.4.5 Overall, whilst certainly not of an exceptional design, the building would be in keeping with the character of this area of Grove Green because there is a mix of buildings present. Because of this I do not consider an objection could be sustained on design grounds.

5.4.6 I consider the siting of the dwelling to be acceptable being in a position that enables retention of protected trees to the north and minimising the impact upon 57 Wingrove Drive to the southwest. The gap between the house and the southwest edge of the site enables retention of an existing hedge. As stated above, the visual impact of the development would be minimal from outside the site and for this reason, I consider the siting of the dwelling to be acceptable.

5.4.7 The access would be finished with shingle and would have a minimal visual impact from outside the site. It has generally been kept to a minimum and I consider it to be acceptable.

5.5 **Residential Amenity**

5.5.1 The proposal represents backland development where the main issues for neighbouring amenity are privacy, impact upon light and outlook, and noise/disturbance from the use of the access.

- 5.5.2 In terms of privacy, the design of the dwelling is such that first floor windows are mainly to the front and rear (north west and south east) elevations. Front windows would face onto the woodland to the northwest and rear windows towards the rear gardens of 36 and 34 Wingrove Drive, 60 Restharrow Road and 'Weavers'.
- 5.5.3 I do not consider there would be any unacceptable loss of privacy to the front of the dwelling as there would only be limited oblique views to the flank wall of 57 Wingrove Drive. Similarly to the rear, only oblique views would be offered to the rear garden of no. 57 and no. 36 to the south. The boundary with the rear garden of no. 34 would be over 19m away from windows. The actual dwellings at nos. 36 and 34 would be between 21m and 28m from rear windows. Due to the distances and angles from these houses and their gardens, I do not consider an unacceptable loss of privacy would occur.
- 5.5.4 Views to the rear garden of 60 Restharrow Road would be more direct. The rear windows would be around 16.5m from the edge of this properties rear garden so would result in some limited overlooking of the rearmost part of the garden. However, the majority of this garden would not be unacceptably overlooked, particularly the area immediately to the rear of this property which would be afforded a sufficient level of privacy. This would also be the case for 'Weavers' to the southeast. The distance between the proposed dwelling and these properties is approximately 33m and 42m and at this distance, I do not consider there to be a privacy issue from windows to windows.
- 5.5.5 Although a first floor window is proposed to the north east flank elevation facing Woodside and Burnlea, this is to serve a bathroom and can be conditioned to be obscure glazed and fixed. All other openings are at ground floor level and would not cause a loss of privacy. For this reason there is not considered to be any significant impact upon neighbouring occupiers with regard to overlooking and loss of privacy.
- 5.5.6 Although the proposed building is sited near to 57 Wingrove Drive to the south, the building has a low eaves height (3.3m) and a part hipped roof, and it is considered that the rear outlook of this dwelling would not be harmfully affected. This property would still have a largely open aspect to the south west and south east which is formed by residential gardens. Nor do I consider a significant loss of light or overshadowing would occur to this bungalow. No other properties would be affected in these respects.
- 5.5.7 The access drive would lead around the northern flank of Woodside and this raises questions over the impact on the living conditions for that dwelling. I agree with the assessment in 2009 under the outline application that this property would be partly shielded from passing vehicles and pedestrians by the existing single storey garage on the north side of the house and, on balance, I

consider the amenities of Woodside would be preserved to a reasonable degree. Any vehicle movements outside the proposed house would not be too such a degree that it would cause unacceptable disturbance to other neighbouring properties.

5.5.8 Concern has been raised with regard to noise from the proposed sewerage pump to the rear of the proposed dwelling on Plot 1 (being considered under MA/10/1763). The apparatus is to be below ground, and as such any resultant noise would be limited. As stated above, the Maidstone Borough Council Environmental Health Officer raises no objection to the proposal.

5.5.9 I consider the proposed dwelling would be afforded a decent standard of amenity with a private area within the garden and an acceptable outlook.

5.6 Highway Safety & Parking

5.6.1 The proposed dwelling shares a vehicular access to Grove Green Lane with Plot 1. The principle of this access to Grove Green Lane and its siting has been approved under the outline application. Grove Green Lane already serves a large number of residential properties and this development would represent a marginal increase in overall traffic. Visibility is adequate onto Grove Green Lane to safeguard pedestrian and vehicular safety. Refuse collection is indicated to take place to the north of Woodside, which would avoid refuse vehicles using the access. This would prevent any highway safety or amenity issues.

5.6.2 Although no passing places are proposed along the access mainly due to the proximity of protected trees, it is not considered that this is necessary given the 3.5m width of the access and the limited extent of the private use that is likely to result occupation of one or two dwellinghouses.

5.6.3 Parking for the house would be in the provision of a garaged parking space and space to the front of the property and on the access (3 spaces in total). This is considered to represent an adequate level of on site car parking for a 4 bedroom dwelling that would not lead to highway safety issues.

5.6.4 It is noted that Kent County Council Highway Services raise no objection to the proposal.

5.7 Landscaping

5.7.1 There are protected trees within and immediately adjacent to the north west boundary of the proposal site, however the landscape officer is satisfied the development would not extend within the root protection area of any of the trees and for this reason no objections are raised. Nonetheless tree protection measures can be a condition to ensure protection during construction.

5.7.2 Some indicative landscaping is shown on the proposed block plan (drawing number 1261-2-201 rev A). Although limited in scope, the limited public views of the site and the presence of protected trees to be retained are such that it is not considered necessary to attach a landscape condition to the permission.

5.8 Other Matters

5.8.1 The applicant has stated in the design and access statement that the development is designed to achieve at least a Level 3 of the Code for Sustainable Development. In order to secure this, it is considered necessary and appropriate to attach a condition to the permission requiring the submission of a final Code certificate prior to occupation of the dwelling.

5.8.2 There is a pond within the area of protected woodland, approximately 16m from the proposed site boundary. As there is potential for the presence of great crested newts on the site as a result of the proximity of this habitat, as well as other protected flora and fauna, an ecological scoping survey and great crested newt survey have been submitted in support of the application. The surveys concluded that no protected amphibians are present on the site, and that whilst the proposal site may provide potential habitats for slow worms (*Anguis fragilis*) and wild birds, disturbance to these populations can be adequately mitigated, as set out in the recommendations of the ecological scoping survey. For this reason, a condition requiring compliance with the recommendations of the ecological scoping survey prior to the commencement of the development will be attached to the permission.

5.8.3 As detailed above, concern has been raised with respect to the absence of a perspective view of the rear elevation of the building. Such a document is not required for the determination of the application, and it is considered that the submitted elevations are adequate to assess the visual appearance of the proposal, and that the submission of additional "artist's representations" would not be reasonable.

6 CONCLUSION

6.1 For the reasons set out above, I consider that the proposed development is acceptable and recommend permission subject to the following conditions

7 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

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

Reason: To ensure a satisfactory appearance to the development in accordance with policy CC1 of the South East Plan 2009 and central government policy and guidance in PPS1 Delivering Sustainable Development.

3. All trees shown to be retained on drawing number 1261-2-201 rev A must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough Wide Local Plan 2000 and NRM7 of the South East Plan 2009 and central government policy and guidance in PPS1 Delivering Sustainable Development.

4. 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 policies ENV6 of the Maidstone Borough Wide Local Plan 2000 and NRM7 of the South East Plan 2009 and central government policy and guidance in PPS1 Delivering Sustainable Development.

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

Reason: to ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009, and central and regional planning policy and guidance in PPS1 Delivering Sustainable Development and Kent Design 2000

6. The development shall be undertaken in accordance with the mitigation measures detailed in Chapter 4 (Recommendations) of the Ecological Scoping Survey (Reference 2010/04/04);

Reason: In the interests of ecological and biodiversity conservation in accordance with central government planning policy and guidance as set out in PPS9 Biodiversity and Geological Conservation.

7. The first floor window to the first floor of the south west elevation shall be shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such;

Reason: To prevent overlooking of adjoining properties in accordance with central government planning policy and guidance in PPS1 Delivering Sustainable Development.

Informatives set out below

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP 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 EHM 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.

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

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

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

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

The applicant is asked to be mindful of the Boxley Parish Council planning policy 'Traffic Management for Residential Development' during construction periods.

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.

APPLICATION: MA/09/1894 Date: 15 October 2009 Received: 19 October 2009

APPLICANT: Mr & Mrs Brown

LOCATION: LAND AT WOODSIDE & BURNLEA, GROVE GREEN LANE,
WEAVERING, MAIDSTONE, KENT, ME14 5JW

PARISH: Boxley

PROPOSAL: Outline planning application for erection of 2 no. dwellings with access to be considered at this stage and all other matters reserved for future consideration as shown on drawing nos. DHA/7272/01, 02, 03 and 04 received on 19/10/09.

AGENDA DATE: 17th December 2009

CASE OFFICER: Geoff Brown

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

- it is contrary to views expressed by Boxley Parish Council

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
The South East Plan 2009: CC1, CC4, CC6, BE6, T4
Village Design Statement: N/A
Government Policy: PPS1, PPS3

HISTORY

MA/04/0665 – Erection of a single storey rear extension – Permitted.

CONSULTATIONS

BOXLEY PARISH COUNCIL "wish to see refused and reported to planning committee. Members considered that this was out of keeping in the area and that the plot was being over developed. Concern was raised over the access and egress to the site, the potential impact on the trees on the site which are covered by TPOs and the effect on the current wildlife at the site. Members queried whether an Environmental Impact Survey was required. Information has been received that a tree has already been felled on the site which might have been covered by a TPO.

Whilst Boxley Parish Councillors did not discuss this I want to remind you that this Parish Council has a Section 106 wishlist. If you are minded to agree this application can thought please be given to requesting a contribution towards community facilities. For instance both Community Halls (Grove Green and Weaving) are having to start refurbishing their old buildings (fire doors and lights/ceilings) so a £1000 contribution to each hall would'nt go amiss. I know MBC does'nt generally do this but I also know that it can if it wants to."

THE KENT COUNTY COUNCIL HIGHWAYS OFFICER has no objection subject to conditions to govern the construction phase of the development.

MBC'S LANDSCAPE OFFICER states: "The trees as shown on the Proposed site layout plan by DHA Planning (Drawing No DHA/7272/03, dated September 2009) appear to be accurately plotted. The two large trees shown within the rear garden of Woodside are both mature English Oak. The only other notable tree within the vicinity of the proposed development is a mature Ash tree growing on the adjacent land directly behind the boundary fence. All three trees have been highlighted on the plan with arrows marked as TPO Trees. Having inspected all three trees the Root Protection Areas marked on the plan appear to be correct and as long as the proposed drive is located in the position shown on the plan there are no arboricultural reasons to refuse the scheme provided that tree protection conditions are applied to any consent you are mindful to approve. For your information, at the time of inspection a large stump of a recently felled Sweet Chestnut tree was present toward the front of the property. This tree is located outside the TPO area so formal consent for its removal would not have been required.

MBC'S ENVIRONMENTAL HEALTH OFFICER has no objection.

REPRESENTATIONS

COUNCILLOR MRS HINDER has written to pass on the concerns of residents in Wingrove Grove. Their houses are set at a lower ground level and they are concerned that the proposed houses would be of a height such as to cause them a loss of light and privacy. Councillor Hinder feels that overlooking may occur due to the difference in land levels, although windows facing them could be obscure glazed.

LETTERS OF OBECTION HAVE BEEN RECEIVED FROM FOUR NEARBY HOUSES. The main points of objection are:

- a) This scheme would represent overcrowding and an overdevelopment of the site.
- b) The access to the site and Grove Green Lane could not cope satisfactorily with this development. Emergency, refuse and private vehicles would need to reverse and manoeuvre at the head of the road close to the access point and this would cause danger to vehicles and to persons using the nearby public footpaths.

- c) The proposals would be harmful to the residential amenities of neighbours. There would be a loss of light and privacy. It must be recognised that the application site is higher land than neighbouring properties to the south and west. The application does not adequately take into account the impact on neighbours.
- d) The scheme would harm trees and hedging. A horse chestnut tree has already been removed.
- e) Wildlife on the site would be harmed by the development, including protected species.

CONSIDERATIONS

Description of the Site

The application site is located on land off the west side of Grove Green Road (a private road) within the defined urban area of Maidstone. It comprises the western parts of the rear gardens of two detached properties, Woodside (a chalet bungalow) and Burnlea (a bungalow). The land here generally slopes down to the south and west and both rear gardens are characterised by lawns with modest trees and bushes, particularly around the boundaries. At the northern boundary of Woodside two mature oak trees are protected by woodland TPO 5/2005, as is a mature ash tree just beyond the boundary: this TPO protects the woodland to the north which 'projects' into the northern margins of the garden.

The Proposal

This is an outline application for the erection of two, one and a half storey dwellings. In terms of detail, only the means of access is to be determined here; issues of appearance, landscaping, layout and scale are reserved for future consideration and are not formally part of this application. Drawings which show the layout and details of the housing have been presented only to illustrate how the two properties may be developed.

As described above the area to accommodate the houses would be the western portions of the rear gardens of Woodside and Burnlea. Access would be via the northernmost of the current two access points that serve Woodside with a new access drive formed around the northern flank Woodside. Woodside would continue to enjoy parking space to the front of the dwelling. The illustrative layout shows how it would be possible to form an access road around the northern flank of Woodside without damaging trees: the drive has been drawn to avoid the root protection areas of the protected oaks and ash. The illustrative drawings show two chalet bungalows but I again emphasise that these are not formally part of the application.

Planning Considerations

The Development Plan and PPS3 'Housing' place a firm emphasis on the development of new housing within sustainable settlements in preference to residential development in less sustainable rural locations. This site is located within the urban area of Maidstone with good access to basic services and public transport and there is no objection to the general principle of two houses in such a location.

Turning to the site specific matters, in my view there is sufficient space to accommodate two detached dwellings (with amenity space, parking space, etc.) without adversely affecting the character and appearance of the area. The location of the site is such that the development would be behind the main built frontages and, in any event, chalet bungalows are a feature of the area and, subject to design, the development proposed would not look out of place.

I do not regard this as an overdevelopment of the site. At approx. 15 dwellings to the hectare, the density is below the 30 dwellings per hectare indicated in PPS3 however I regard the density of development to be acceptable: a higher density would not be appropriate given the need to retain trees and preserve the amenities of Woodside. There is sufficient room to provide amenity space for the houses and leave adequate garden land for Woodside and Burnlea.

The access drive would lead around the northern flank of Woodside and this raises questions over the impact on the living conditions for that dwelling. That property would be shielded from passing vehicles and pedestrians by the existing single storey garage on the north side of the house and, on balance, I consider the amenities of Woodside would be preserved to a reasonable degree.

The Highways Officer has raised no objection and I agree that there are no reasons to refuse this application on highways grounds. Grove Green Road already serves a large number of residential properties and this development would represent a marginal increase in overall traffic. Visibility is adequate at the point of access to safeguard pedestrian and vehicular safety. Both the existing and proposed dwellings would have off-road parking space.

I note the objections of neighbours but much of the concern seems to be based on the illustrative drawings of the dwellings which are not put forward for formal determination here. Whilst recognising that land levels on the site are higher than those of neighbouring properties to the south and west, in my view there is sufficient space on the site such that it should be quite feasible to arrive at a layout, scale and design that causes no significant harm to neighbours in terms of loss of light, loss of privacy, loss of outlook or excessive noise and disturbance.

The comments of the Landscape Officer are reported above. He has examined the scheme and has no objection, commenting that the route of the access drive is outside the root protection area of the protected trees. No trees of significance would be removed or damaged as a result of this development and there are no grounds to

object on this issue. There would be adequate space to provide new planting as a part of the required landscaping details. Whilst I recognise that, to degree, all suburban gardens support wildlife, these are characterised by mown grass, ornamental planting, etc and I do not consider that this application can be refused on ecological grounds.

It would not be appropriate to require financial contributions towards social facilities, etc. on a proposed development of only two dwellings. I recommend that outline planning permission be granted.

I note that the illustrative elevation submitted with the application does not show a dwelling of high quality design, in that it does not take adequate account of its visual context, and I recommend the imposition of an appropriately worded informative.

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

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

2. The dwellings shall achieve a minimum of Level 3 of the Code for Sustainable Homes. The dwellings shall not be occupied until a final Code Certificate has been issued for them certifying that (at least) Code Level 3 has been achieved;

Reason: To ensure a sustainable and energy efficient form of development in accordance with Policy CC4 of The South East Plan 2009, PPS1: Delivering Sustainable Development and Kent Design 2000.

3. The landscaping details to be submitted pursuant to condition 1 shall demonstrate how all trees to be retained will be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction- Recommendations'. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

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

4. The development shall not commence until, details of the proposed slab levels of the building(s) and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site. This in accordance with Policy CC6.

Informatives set out below

The developers should ensure that the details submitted pursuant to condition 1 show a development of good design as the submitted illustrative elevation does not represent a sufficiently high quality design for the dwellings.

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

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MA/10/1674:

Address

**Plot 2 Land Rear of Burnlea and
Woodside, Grove Green Lane,
Weaving, Kent, ME14 5JW**

Amended drawing

An amended site location plan was received by the Local Planning Authority on 12th November 2010. The plan shows the correct footprint of the proposed dwelling, but is otherwise unchanged. Full reconsultation of interested parties has been undertaken as a result.

Consultation Response

Boxley Parish Council: Have no further comment to make (email dated 23rd November 2010).

Officer Comment

The amended drawing does not change the scope or character of the proposal, however as interested parties have been reconsulted, a decision cannot be issued prior to the expiry of the reconsultation period (6th December 2010).

Amendments to Recommendation

Subject to the expiry of the re-consultation period and the receipt of no representations raising new issues, I be delegated power to grant planning permission subject to conditions, as set out in the Committee Report.

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Agenda Item 20

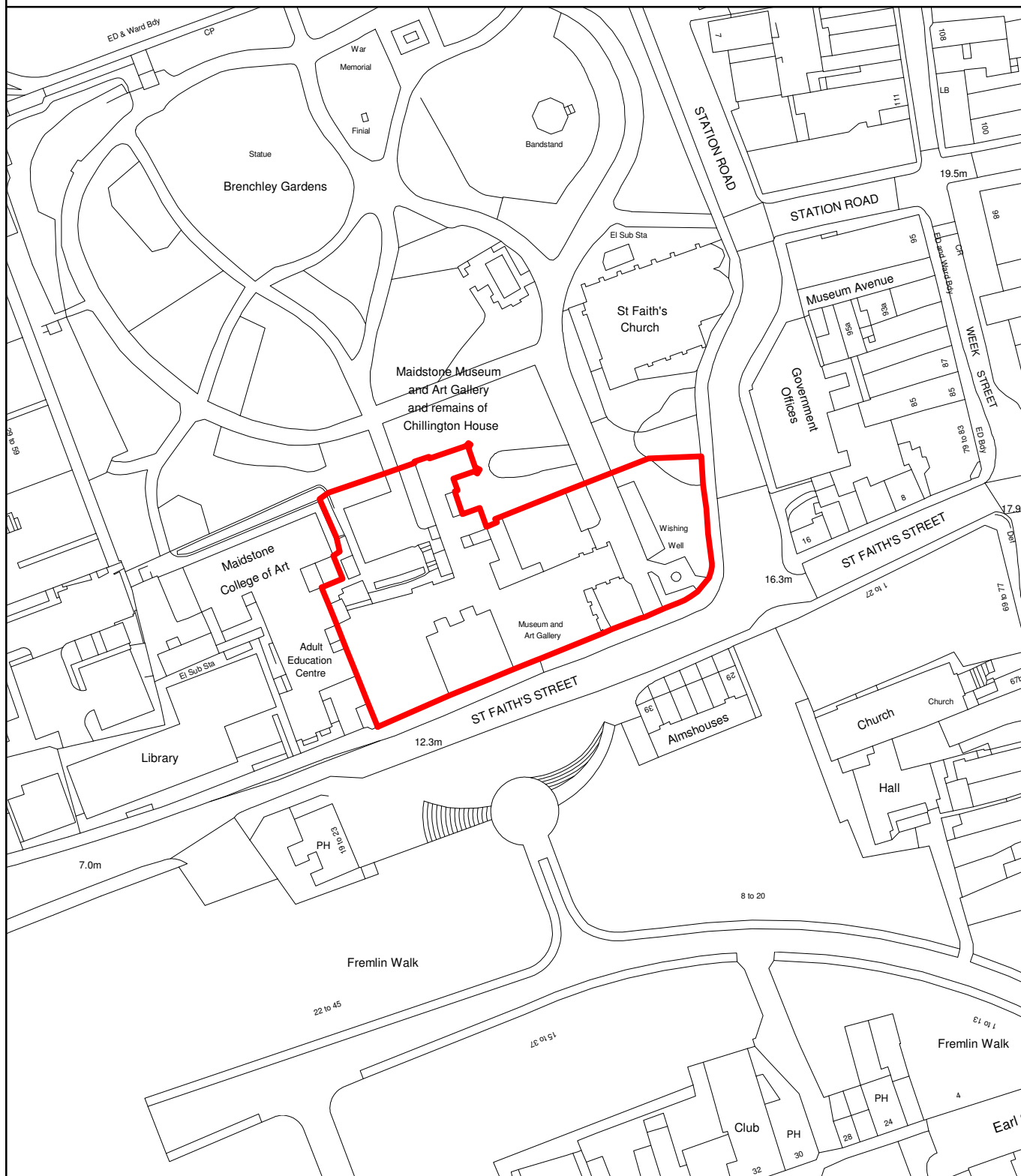
THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1753

GRID REF: TQ7556

MBC MUSEUM

ST. FAITH'S STREET, MAIDSTONE.



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Rob Jarman
Head of Development Management

APPLICATION: MA/10/1753 Date: 7 October 2010 Received: 11 October 2010

APPLICANT: Mr A Tomlin

LOCATION: MBC MUSEUM, ST FAITHS STREET, MAIDSTONE, KENT, ME14 1LH

PARISH: Maidstone

PROPOSAL: Listed building consent for the removal and safe storage of 4no leaded windows to Maidstone Museum's Bentlif wing to allow installation of new concealed ductwork servicing the east wing, as shown on drawing numbers 126/GA-00/Rev LB1, 126/E-03/Rev LB1, 126/GA-21/Rev LB1, & 126/PH-07/Rev LB1 received on 11/10/10 and described in the letter from the agent dated 07/10/10 and received 11/10/10.

AGENDA DATE: 25th November 2010

CASE OFFICER: Angela Welsford

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

- the Council is the applicant

1 POLICIES

- 1.1 Maidstone Borough Wide Local Plan 2000: Not applicable.
- 1.1 The South East Plan RSS 2009: BE6.
- 1.3 Government Policy: PPS5 - Planning for the Historic Environment.

2 HISTORY

The museum site has an extensive planning history, the most recent and of most relevance being:

- 2.1 MA/09/0998 - Amendment to MA/07/1366 (Redevelopment of Maidstone Museum east wing comprising of two/three storey extensions, glazed atrium cafe and external landscaping) being replacement of proposed glazed atrium cafe with new display gallery and replacement of proposed hard landscaping to forecourt with soft landscaping – APPROVED 23/07/09.
- 2.2 MA/09/0997 - Amendment to MA/07/1365 (An application for listed building consent for redevelopment of Maidstone Museum east wing comprising of two/three storey extensions, glazed atrium cafe and external landscaping) being

replacement of proposed glazed atrium cafe with new display gallery and replacement of proposed hard landscaping to forecourt with soft landscaping shown – APPROVED 31/07/09.

- 2.3 MA/09/0561 - An application for listed building consent for the excavation alongside existing foundations under the chapel floor for the insertion of a post tension ring beam to tie the failed underpinning together and lime mortar pointing to stonework and redecoration to remove cracks – APPROVED 26/05/09.
- 2.4 MA/07/1366 - Redevelopment of Maidstone Museum east wing comprising of two/three storey extension, glazed atrium cafe and external landscaping - APPROVED 20/09/07.
- 2.5 MA/07/1365 - An application for listed building consent for redevelopment of Maidstone Museum east wing comprising of internal refurbishment, new two/three storey extension and glazed atrium cafe – APPROVED 20/09/07.

3 CONSULTATIONS

- 3.1 ENGLISH HERITAGE: No response received to date.
- 3.2.1 MAIDSTONE BOROUGH COUNCIL CONSERVATION OFFICER: No objections to these minor works relating to windows already blocked internally. The works are fully reversible and do not involve anything beyond the removal of the casements from the masonry frames.
- 3.2.2 It is therefore recommended that the application should be approved with a condition requiring submission for approval of a detailed method statement covering the removal, conservation and future storage arrangements for the removed windows.

4 REPRESENTATIONS

- 4.1 No representations have been received to date.

5 CONSIDERATIONS

5.1 Site and Surroundings

- 5.1.1 The application site is the Grade II* listed Maidstone Museum, located in the Chillington House Conservation Area, close to Maidstone Town Centre. It also falls within an Area of Archaeological Potential.

5.1.2 The building occupies a prominent position opposite Fremfins Walk and has Elizabethan origins, although it was substantially restored and extended in the Victorian era. The front facing St Faith's Street is E-shaped and is constructed of red brick with detailed gables. The east elevation faces Brenchley Gardens, and historically was flanked by a gatehouse, which was destroyed by enemy action in 1940.

5.2 **Background**

5.2.1 Listed Building Consent and Planning Permission were granted, under references MA/07/1365 & MA/07/1366, for the redevelopment of the museum's east wing, including the construction of two / three storey extensions and internal refurbishment. Two main extensions were approved – one to the south east corner, between two gables and one to the north of the eastern gable, adjacent to a 20th century store.

5.2.2 Listed Building Consent and Planning Permission were subsequently granted for relatively minor changes to that approved scheme under references MA/09/0997 & MA/09/0998.

5.2.3 Building works commenced in April 2010, and at the time of my site visit were still under way.

5.2.4 During the construction works, an unforeseen structural beam was discovered to the ground floor ceiling of the Lower Bearsted Gallery. This prevents the implementation of the originally-planned ventilation ductwork routes. Consequently, it will be necessary to create four openings in the east elevation of the Lower Bentlif Gallery in order to re-route the ducts and still enable them to remain concealed behind the new suspended ceiling structure.

5.3 **Proposal**

5.3.1 Listed Building Consent is sought for the removal and safe storage of four transom light windows to the east elevation of the Lower Bentlif Gallery to allow the installation of new concealed ductwork to service the museum's east wing. These transom lights form part of two larger mullioned and transomed windows. (There are three such large mullioned and transomed windows on this part of the east-facing elevation of the museum.)

5.3.2 It should be noted that it is only the leaded light casements that would be removed. The masonry window frames would remain in place.

5.3.3 The submission explains that the windows would be assessed individually for stability and, if it is considered necessary, low-tack masking tape would be used across vulnerable panes to prevent them from dropping out during handling.

The removal of the historic stained glass would be carried out by specialist glass conservators, with the windows placed in plywood cradles with cushioning and straps, and lowered to the ground using a Genie lift.

5.3.4 The windows would be securely labelled, and a note made of their type and position on the building, plus a photographic record would be made. They would be packed vertically into purpose-made, plywood cases, which would then be stored close to their original location, at low level behind the new partition wall that has already been approved as part of the east wing redevelopment.

5.3.5 Records of the works undertaken, the on-site photographic survey and details of the storage location would be included in the Building Maintenance Manual.

5.4 **Assessment**

5.4.1 The key issue arising from this application is the impact upon the historic and architectural integrity of the Grade II* Listed building, its significance and its features of special interest.

5.4.2 The windows, (transom lights), subject of this application form part of two larger mullioned and transomed windows. Each large window is made up of eight sections – four large sections at the bottom and four smaller sections (the transom lights) at the top. There are three such large mullioned and transomed windows on this part of the east-facing elevation of the museum. These windows are currently blocked internally, so, prior to the commencement of the building works to extend the museum, were only visible from the outside.

5.4.3 As a result of the approved extension to the south-east corner of the museum, all three large mullioned and transomed windows would become internal, and the two affected by this application would be completely concealed behind a new plasterboard internal partition wall. Consequently, there would not be any visible effect on the architecture or historic character of the building.

5.4.4 It is my view that it will definitely be preferable to utilise natural 'openings' in the architectural framework of the building to overcome the problem of the ventilation ducts than to puncture four new openings through the wall or carry out alterations to the structural beam obstructing their originally-planned route. The transom light windows are considered to be important to the historic and architectural integrity of the building inasmuch as they are historic fabric. However, I consider that the submission proposes a sensitive and well-thought-out solution to the problem that will not only ensure that no historic fabric is lost, but will also ensure that it is all carefully recorded, removed and stored.

5.4.5 The Conservation Officer has confirmed that the works would be fully-reversible, so would not cause any harm to the listed building. As stated above, in

paragraph 5.3.2, it is important to remember that the proposal does not involve anything beyond the removal of the casements of the four small transom lights from the masonry frames so would not harm the structure of the building in any way. I therefore consider that, subject to an appropriate condition requiring submission for written approval of a fully-detailed method statement covering the removal, conservation and intended storage arrangements of the removed windows, the proposal would preserve the Grade II* Listed building and its features of special architectural/historic interest. As such, the proposal complies with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and PPS5 - Planning for the Historic Environment and Listed Building Consent can therefore be granted.

5.5 **Other Issues**

- 5.5.1 Although the site is located in the Chillington House Conservation Area, impact on a conservation area is dealt with under applications for planning permission, not Listed Building Consent. In this instance the works would not be visible, so there would not be any impact in any case.
- 5.5.2 There are no archaeological issues to consider due to the position and nature of the proposed works, which will not involve any groundworks.

5.6 **Conclusion**

- 5.6.1 The proposed removal and safe storage of the four windows would preserve the historic and architectural integrity of the Grade II* Listed building, its significance and its features of special interest. The proposal is therefore considered to comply with Central Government guidance as set out in PPS5 and I therefore recommend approval subject to the conditions set out below.
- 5.6.2 As this is a Listed Building Consent application made by the Council, it must be referred to the Secretary of State for determination and consequently I have phrased my recommendation to Members accordingly:

6 RECOMMENDATION

REFER THE APPLICATION TO THE SECRETARY OF STATE FOR DETERMINATION, RECOMMENDING THAT LISTED BUILDING CONSENT BE GRANTED 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 works hereby permitted shall be carried out in accordance with the following approved plans:

126/GA-00/Rev LB1, 126/E-03Rev LB1, 126/GA-21/Rev LB1, & 126/PH-07/Rev LB1 received on 11/10/10;

Reason: To ensure the quality of the development and the historic significance of the Grade II* Listed building are maintained in accordance with Policy BE6 of The South East Plan RSS 2009 and the Central Government advice contained in PPS5 - Planning for the Historic Environment.

- 3 The works shall not commence until a detailed method statement covering the removal, conservation and future storage arrangements for the removed windows has been submitted to and approved in writing by the Local Planning Authority, and the works shall subsequently be carried out in strict accordance with the approved statement;

Reason: To ensure the historic significance of the Grade II* Listed building and its features of special interest are preserved in accordance with Policy BE6 of The South East Plan RSS 2009 and the Central Government advice contained in PPS5 - Planning for the Historic Environment.

REASON FOR APPROVAL

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

The 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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ART GALLERY

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