

# AGENDA

## PLANNING COMMITTEE MEETING



Date: Thursday 21 July 2011  
Time: 6.00 p.m.  
Venue: Town Hall, High Street,  
Maidstone

### Membership:

Councillors Ash, Collins, Cox, English, Garland,  
Harwood, Lusty (Chairman), Nelson-  
Gracie, Newton, Paine, Paterson,  
Mrs Robertson and J.A. Wilson

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Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - Monday 25 July 2011

**Continued Over/:**

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**Issued on 13 July 2011**

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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.
10. Minutes of the meeting held on 30 June 2011 1 - 7
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23. Update on Matters Referred to the Cabinet Members for Environment/Economic Development and Transport

### **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 30 JUNE 2011**

**Present:** Councillor Lusty (Chairman) and  
Councillors Ash, Chittenden, Collins, Cox, English,  
Harwood, Hinder, Nelson-Gracie, Newton, Paine,  
Mrs Robertson and J.A. Wilson

**Also Present:** Councillors Verrall and de Wiggondene

51. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillors Garland and Paterson.

52. **NOTIFICATION OF SUBSTITUTE MEMBERS**

The following Substitute Members were noted:-

Councillor Chittenden for Councillor Paterson  
Councillor Hinder for Councillor Garland

53. **NOTIFICATION OF VISITING MEMBERS**

Councillor Verrall indicated his wish to speak on the reports of the Head of Development Management relating to applications MA/11/0154 and MA/11/0201.

It was noted that Councillor de Wiggondene had indicated his wish to speak on the report of the Head of Development Management relating to application MA/10/1878.

54. **ITEMS WITHDRAWN FROM THE AGENDA**

There were none.

55. **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.

56. DISCLOSURES BY MEMBERS AND OFFICERS

Councillors Harwood and Hinder disclosed personal interests in the report of the Head of Development Management relating to application MA/10/1824. They stated that they were Members of Boxley Parish Council, but they had not participated in the Parish Council's discussions on the application and intended to speak and vote when it was considered.

Councillor Paine disclosed a personal interest in the report of the Head of Development Management relating to application MA/10/1824 by virtue of being a non-executive member of the Medway River Users' Association.

Councillor Mrs Robertson stated that since she had pre-determined application MA/10/1741, she would speak but not vote when it was discussed.

57. EXEMPT ITEMS

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

58. MINUTES OF THE MEETING HELD ON 9 JUNE 2011

The Chairman reminded the Committee that an amended version of the Minutes had been circulated following publication of the agenda.

RESOLVED: That the amended version of the Minutes of the meeting held on 9 June 2011 be approved as a correct record and signed.

59. PRESENTATION OF PETITIONS

There were no petitions.

60. DEFERRED ITEMS

- (1) MA/10/1878 - ERECTION OF 1 NO. BUNGALOW (PLOT 2) WITH DETACHED GARAGE, ACCESS AND ASSOCIATED WORKS (RE-SUBMISSION OF APPLICATION MA/10/1149) - LAND ADJACENT TO THE RETREAT, WARE STREET, WEAVERING, MAIDSTONE

See Minute 64 below.

- (2) MA/10/1627 - ERECTION OF A NEW DWELLING - LAND OFF BEECHEN BANK, BOXLEY ROAD, WALDESLADE

The Head of Development Management advised the Committee that negotiations were taking place in respect of this application.

- (3) MA/10/2189 - ERECTION OF 5 NO. DWELLINGS WITH GARAGING, PARKING PROVISION, NEW DRIVEWAY - AMENDED DESIGN TO THAT APPROVED UNDER REFERENCE MA/09/0760 - LITTLE ORCHARD, CHURCH LANE, BEARSTED, MAIDSTONE

The Head of Development Management advised the Committee that negotiations were taking place in respect of this application.

61. MA/10/1555 - USE OF LAND FOR THE STATIONING OF TWO MOBILE HOMES AND TWO TOURING CARAVANS FOR GYPSY/TRAVELLER OCCUPATION AND THE KEEPING OF HORSES PLUS ERECTION OF STABLES, TWO UTILITY/DAY ROOMS, HARDSTANDING AND SEPTIC TANK - STILEBRIDGE PADDOCK, STILEBRIDGE LANE, LINTON, KENT

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

Councillor Munford of Boughton Monchelsea Parish Council (against) and Mr Woods, for the applicant, addressed the meeting.

Councillor Munford left the meeting after he had spoken.

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

Additional Conditions

Within 3 months of the date of this decision details of 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 plan shall be submitted for approval in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall pay particular attention to landscaping around the entrance to the site, retaining all hedging and the filling of any gaps within existing hedging.

Reason: No such details have been submitted and to ensure an appropriate setting to the site in the interests of visual amenity in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000, policies CC1 and C4 of the South East Plan 2009 and PPS7.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the next planting and seeding season (October 2011 – March 2012); 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 an appropriate setting to the site in the interests of visual amenity in accordance with policies ENV6 and ENV28 of the

Maidstone Borough-Wide Local Plan 2000, policies CC1 and C4 of the South East Plan 2009 and PPS7.

Additional Informative

The applicant should contact Maidstone Borough Council Landscape Officers in advance of submitting and implementing any landscaping scheme and work closely with them to ensure an effective delivery of the scheme.

Voting:        9 – For        1 – Against        3 – Abstentions

62. MA/10/1741 - AMENDED SCHEME TO PLANNING PERMISSION ON MA/09/0508 (SINGLE STOREY EXTENSION WITH CONVERTED ROOF SPACE TO SOUTH ELEVATION) HAVING REVISED SCALE AND ALTERATIONS TO FENESTRATION - 7 HAZELWOOD DRIVE, MAIDSTONE

All Members stated that they had been lobbied.

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

Mr Gomersall addressed the meeting on behalf of objectors.

Contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse permission. In making this decision, Members felt that the cumulative effect of the changes to the extension from that approved under application reference MA/09/0508, in terms of the height, depth and mass was so overwhelming to the occupiers of numbers 48 and 50 Roseleigh Avenue such that the development would result in unacceptable harm to the amenity of the occupiers of these properties. This was contrary to policy H18 of the Maidstone Borough-Wide Local Plan 2000, advice within the Council's adopted Supplementary Planning Guidance 'Residential Extensions' 2009 and PPS1.

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

The cumulative effect of the changes to the extension from that approved under application reference MA/09/0508, in terms of the height, depth and mass is so overwhelming to the occupiers of numbers 48 and 50 Roseleigh Avenue such that the development would result in unacceptable harm to the amenity of the occupiers of these properties. This is contrary to policy H18 of the Maidstone Borough-Wide Local Plan 2000, advice within the Council's adopted Supplementary Planning Guidance 'Residential Extensions' 2009 and PPS1.

Voting:        7 – For        4 – Against        2 – Abstentions

Note: The Chairman requested that his dissent be recorded.

63. MA/10/1824 - USE OF RIVER BANK TO MOOR RESIDENTIAL BARGES - RIVERSIDE COTTAGE, SANDLING, MAIDSTONE

The Committee considered the 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 following additional condition and informative:-

Additional Condition

Within 3 months of the date of this decision details of a long term landscape management and maintenance plan to restore where necessary and maintain a semi-natural river bank at the site shall be submitted for approval in writing by the Local Planning Authority. The approved details shall thereafter be maintained to the satisfaction of the Local Planning Authority.

Reason: In the interests of visual amenity in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

Additional Informative

Any vessels moored at the site should only be residential vessels.

Voting: 12 – For 0 – Against 1 – Abstention

64. MA/10/1878 - ERECTION OF 1 NO. BUNGALOW (PLOT 2) WITH DETACHED GARAGE, ACCESS AND ASSOCIATED WORKS (RE-SUBMISSION OF APPLICATION MA/10/1149) - LAND ADJACENT TO THE RETREAT, WARE STREET, WEAVERING, MAIDSTONE

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

Mrs Scott, an objector, Mr Fowler, for the applicant, and Councillor de Wiggondene addressed the meeting.

RESOLVED:

1. That subject to the negotiation of minor alterations to the siting of the garage in order to increase landscaping around the perimeter of the site, the Head of Development Management be given delegated powers to grant permission subject to the conditions and informative set out in the report, the additional condition and informative set out in the urgent update report and any additional or amended conditions as necessary.
2. That details of the additional landscaping should be agreed in consultation with the Ward Member and the Parish Council.

Voting: 13 – For 0 – Against 0 – Abstentions

65. MA/11/0154 - RETROSPECTIVE PLANNING PERMISSION FOR THE CHANGE OF USE OF LAND FROM AGRICULTURE TO RESIDENTIAL GARDEN - 7 ROUNDEL WAY, MARDEN, TONBRIDGE

The Chairman and Councillors English and Nelson-Gracie stated that they had been lobbied.

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

Councillor Verrall addressed the meeting in support of the application.

RESOLVED: That permission be refused for the reasons set out in the report with the amendment of reason for refusal no. 1 as follows:-

The change of use of land to domestic garden due to its size and intrusion into the adjoining agricultural field results in harm to the character and appearance and biodiversity interests of the countryside hereabouts contrary to policies ENV28 and H31 of the Maidstone Borough-Wide Local Plan 2000, policies CC6 and C4 of the South East Plan 2009, PPS7 and PPS9.

Voting: 11 – For 1 – Against 1 – Abstention

66. MA/11/0201 - RETROSPECTIVE PLANNING PERMISSION FOR THE CHANGE OF USE OF LAND FROM AGRICULTURAL LAND TO RESIDENTIAL GARDEN - 5 ROUNDEL WAY, MARDEN, TONBRIDGE

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

Councillor Verrall addressed the meeting in support of the application.

RESOLVED: That permission be refused for the reason set out in the report amended as follows:-

The change of use of land to domestic garden due to its size and intrusion into the adjoining agricultural field results in harm to the character and appearance and biodiversity interests of the countryside hereabouts contrary to policies ENV28 and H31 of the Maidstone Borough-Wide Local Plan 2000, policies CC6 and C4 of the South East Plan 2009, PPS7 and PPS9.

Voting: 10 – For 1 – Against 1 – Abstention

Note: Councillor English left the meeting during consideration of this application. He returned shortly afterwards, but did not participate further in the discussion or voting on the application.



67. MA/11/0752 - AN APPLICATION FOR LISTED BUILDING CONSENT FOR WORKS TO THE LEAD GUTTER SERVING THE ROOF, INCLUDING REMOVAL OF REDUNDANT SV PIPE FROM FRONT ELEVATION AND REPLACEMENT WITH CAST IRON DOWNPIPE - TOWN HALL, MIDDLE ROW, MAIDSTONE

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

RESOLVED: That this application be referred to the Secretary of State for determination with the recommendation that listed building consent be granted subject to the conditions set out in the report.

Voting: 13 – For 0 – Against 0 – Abstentions

68. APPEAL DECISIONS

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

RESOLVED: That the report be noted.

69. CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised the Committee that a meeting of the Chairman and Political Group Spokespersons had been arranged to take place on 11 July 2011. If Members wished to include items on the agenda for the meeting, they should forward them to the representative of the Head of Democratic Services by 4 July 2011. In response to this request, a number of issues were put forward for inclusion on the agenda.

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

It was noted that there was nothing to report at present.

Arising from its consideration of applications at the meeting, the Committee:-

RESOLVED:

1. That the Cabinet Member for Economic Development and Transport be requested to renew with vigour his representations to the Secretary of State for Communities and Local Government regarding the facility for retrospective applications.
2. That the Cabinet Member for Economic Development and Transport be requested to lobby the Environment Agency regarding the need for its advice on drainage issues at an early stage in the consideration of applications for development in sensitive rural areas.

71. DURATION OF MEETING – 6.00 P.M TO 9.10 P.M.

# Agenda Item 12

## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

21 JULY 2011

#### REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT

##### 1. DEFERRED ITEMS

1.1. The following applications stand deferred from previous meetings of the Planning Committee. The Head of Development Management will report orally at the meeting on the latest situation. The applications may be reported back to the Committee for determination.

1.2. Description of Application Date Deferred

(1) MA/10/1627 – ERECTION OF A NEW DWELLING – LAND OFF BEECHEN BANK, BOXLEY ROAD, WALDERSLADE 9 JUNE 2011

Deferred to enable:

1. A fuller analysis of the impact upon the semi natural ancient woodland as a whole.
2. An examination of the ecological interest of the site.
3. The design of the dwelling to incorporate features which take inspiration from the woodland setting.

(2) MA/10/2189 – ERECTION OF 5 NO. DWELLINGS WITH GARAGING, PARKING PROVISION, NEW DRIVEWAY – AMENDED DESIGN TO THAT APPROVED UNDER REFERENCE MA/09/0760 – LITTLE ORCHARD, CHURCH LANE, BEARSTED, MAIDSTONE 9 JUNE 2011

Deferred to enable negotiations seeking:

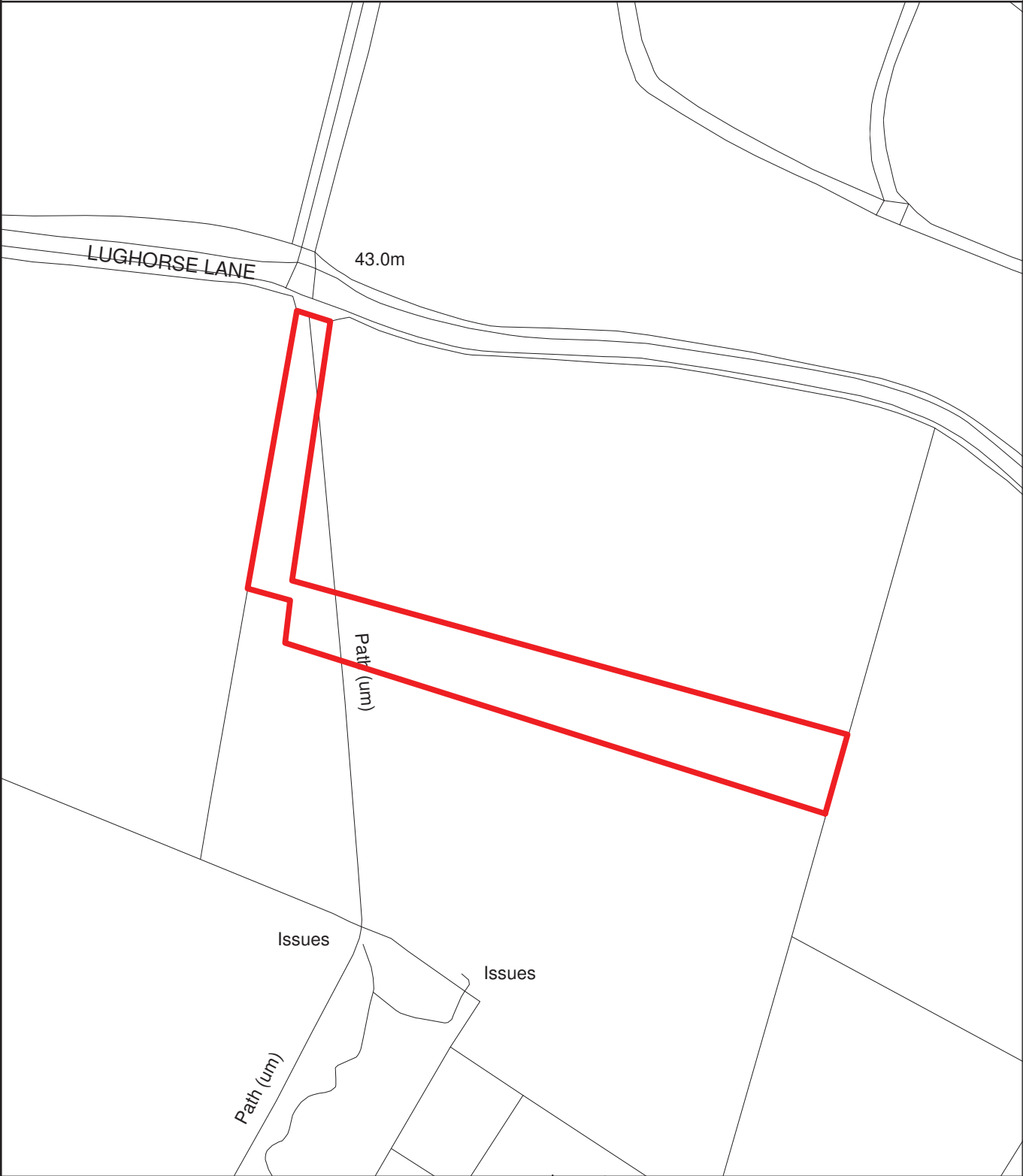
1. A reduction in the level of hardstanding on the site.
2. A detailed landscaping scheme to be submitted incorporating additional landscaping within the site.

# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1542

GRID REF: TQ7250

PLOT 5 LAND AT,  
LUGHORSE LANE, HUNTON.



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**Rob Jarman**  
**Head of Development Management**

APPLICATION: MA/10/1542 Date: 19 December 2010 Received: 8 April 2011

APPLICANT: Mr Billy Smith

LOCATION: PLOT 5 LAND AT, LUGHORSE LANE, HUNTON, KENT

PARISH: Hunton

PROPOSAL: Change of Use of land to provide two plots for gypsy travellers, including the stationing of two mobile homes, two touring caravans, a stable building and two utility blocks as shown on drawing nos. MAI/08/SM/03 and 04 received on 3/9/11; and drawing nos. MAI/08/SM/01/A and 02/A received on 20/10/11.

AGENDA DATE: 21st July 2011

CASE OFFICER: Geoff Brown

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

- Hunton Parish Council has requested Planning Committee consideration

**1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV26, ENV28, ENV34, ENV46
- The South East Plan 2009: CC1, CC6, C4, H4, NRM5
- Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 1/2006

**2. HISTORY**

MA/02/2134 - An outline application for a 4 bedroom detached dwelling and double garage, with all matters reserved for future consideration – Refused.

MA/97/1125 - Change of use of land to a mixed use for agriculture and the stationing of a residential mobile home; 16 poultry buildings and two sheds – Refused.

There is a current application on land to the south of this site which is, as yet, undetermined:

MA/10/1336 - Variation of enforcement appeal reference ENF/8968 Conditions 1 and 2 to allow the use of the site for the siting of a mobile home and a touring caravan on a permanent basis for an extended gypsy family.

### **3. CONSULTATIONS**

HUNTON PARISH COUNCIL wishes to see the application refused. The development would be detrimental to the landscape.

THE KCC BIODIVERSITY PROJECTS OFFICER agrees with the ecological statement submitted with the application that the development is unlikely to result in adverse ecological impacts. It is recommended that the proposed hedgerows are planted with native species and this could be secured by condition.

THE KCC PUBLIC RIGHTS OF WAY OFFICER objects to the application as there appears to be little consideration as to how the proposed scheme would deal with the public footpath that crosses the site. If permission is to be granted then a 2m path should be secured between paddocks.

### **4. REPRESENTATIONS**

LETTERS OF OBJECTION HAVE BEEN RECEIVED FROM PROTECT KENT, RAMBLERS (MAIDSTONE GROUP), A LOCAL ENGINEERING COMPANY AND 17 LOCAL HOUSEHOLDS. The following points are raised:

- a) Applications from travellers should be treated in the same way as applications from the rest of the community. Personal circumstances are not relevant.
- b) Some representations argue that the Council has failed to make adequate provision for travellers, including public site provision. Resources should be expended in providing new sites. On the other hand, some representations argue that adequate provision has been made and there is no need to allow these proposals.
- c) Ineffective measures and bad decision making have resulted in a proliferation of unauthorised sites all over the Borough.
- d) The site is clearly visible and the development would harm the character of the Special Landscape Area. The Council had previously deemed it necessary to issue an Article 4 Direction and issue enforcement notices.
- e) The development would be contrary to policy and guidance. The Government's intention to withdraw Circular 01/2006 should be given due weight.
- f) The proposals would cause harm to the settled community. There would be an undue concentration of such sites in the area.
- g) The applicants live in Dartford and there is no need for them to move here.
- h) There are no proper facilities for the removal of sewage and other basic facilities.
- i) Lughorse Lane is not of adequate standard to satisfactorily deal with the traffic from the development. The area around the access is prone to flooding.

- j) This is not a sustainable location with few basic services and poor access to public transport.
- k) The proposals would lead to the loss of agricultural land.
- l) Inadequate attention has been paid to the existence of the public footpath. Access along the public footpath would be adversely affected.
- m) The ecology of the area would be harmed.
- n) The extent to which the land would be used for business purposes should be investigated.
- o) The value of local properties would fall.

COUNCILLOR COLLINS makes the following points:

“Concerns voiced to me by local residents.

1. Site immediately abuts King George V playing fields, which are very well kept and the parish is very proud of. The mobile home already there on a temporary permission is clearly visible from most parts of the fields even in summer.
2. Site directly adjacent to footpath. It is understood that the foot path will be obstructed by stiles and this could result in several stiles in a short distance as more sites are applied for.
3. This is a Special Landscape Area.
4. There is a blind access onto West Street. An appeal has just upheld a decision on similar case in Sussex.
5. An article 4 removing all development rights was imposed by MBC.
6. There are two springs emerging from the site, need for careful disposal of sewage.
7. Use of conditions Circular 11/95. 4-1141 applies.
8. If not, Gypsy submission of further details should apply. [retrospective planning permission]
9. Nothing should be done to encourage any development on this area of land, and no renewal of temporary permissions.
10. It seems to be widely accepted that the existing mobile home is not used as a permanent dwelling [seems more like a summer retreat].”

## **5. CONSIDERATIONS**

### **5.1 Site Description**

- 5.1.1 The application site is located in open countryside off the south side of Lughorse Lane approx. 200m west of the junction with West Street/Hunton Hill. This is flat land within the Greensand Ridge Special Landscape Area (SLA). The application site involves a strip of grassland, currently grazed by horses, measuring approx. 15m wide by 125m long. This strip is in the middle portion of a larger, roughly square-shaped field. The site is approx. 60 to 70m away from Lughorse Lane which has patchy hedging of indigenous species separating the highway from the aforementioned field.
- 5.1.2 The land is served by a rough track down the west side of the field that eventually leads to the traveller site to the south east of the field; and that site is the subject of undetermined application MA/10/1336. Public Footpath KM163 runs from the vicinity of the access gate to Lughorse Lane southwards so that it cuts across the corner of the square-shaped field and therefore across the western extremity of the application site. The site is bounded to the west by low fencing and to the east by a line of intermittent hedging.

### **5.2 Proposal**

- 5.2.1 This application proposes a change of use of agricultural land to the establishment of a caravan site for occupation by two gypsy families. This involves a utility block, a mobile home and a touring caravan for each family arranged on two plots laid out east/west along the strip that forms the application site. These plots would be served by an access track extending eastwards from the existing rough track. At the eastern extremity of the application site would be a small, 'L-shaped' stable block (involving four stable units) of weatherboarding under a tiled roof. The stable block would be approx. 2.4m to eaves and 3.7m to ridge.
- 5.2.2 The heads of the two families are two brothers: Billy and Lenny Smith. Bill has a wife and two young children; Lenny a wife and five young children. The application states that the family has links to the Kent area and have always travelled as their way of life. All of the occupants are related and have been on the road looking for sites for several years, on occasions 'doubling-up' on sites. The application states that the families are homeless with nowhere to live and there is a desire to settle so that health and education services can be accessed, bearing in mind that young children are involved. There is mention of an elderly relative with health problems but this person does not appear to be a prospective occupant, nor are any further details given on that person.

### **5.3 Principle of Development**

5.3.1 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the Local Plan relates to development in the countryside stating that:

“Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers”

5.3.2 ENV28 then outlines the types of development that can be permitted. This does not include gypsy development: this was previously formally covered under housing policy H36 but this is not a ‘saved’ policy.

5.3.3 There is no specific gypsy accommodation policy in The South East Plan 2009 although Policy H4 makes reference to providing accommodation for gypsies and therefore there is no need to advertise this application as a departure from the Development Plan. Policy CC1 concerns sustainable development and ensuring the physical and natural environment of the South East is conserved and enhanced. Policy CC6 outlines that actions and decisions associated with the development and use of land should respect, and where appropriate enhance, the character and distinctiveness of settlements and landscapes. Policy C4 concerns landscape and countryside management, essentially outlining that outside nationally designated landscapes, positive and high quality management of the region’s open countryside will be encouraged, protected and enhanced, securing appropriate mitigation where damage to local landscape character cannot be avoided.

5.3.4 PPS7: Sustainable Development in Rural Areas outlines at paragraph 15 that:

“Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced.”

5.3.5 PPS4 is also considered relevant, as whilst it relates to economic development, it provides the Government’s most recent stance on the protection of the countryside at Policy EC6 –

“Local Planning Authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all.”

5.3.6 Also key in the determination of this appeal is Central Government Guidance contained within Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites will need to be found in



rural areas. Whilst the Government has indicated that this guidance is to be withdrawn, it remains in place and must be given significant weight.

- 5.3.7 Work on the Local Development Framework is progressing; however there is, as yet, no adopted Core Strategy. Now that the Government intends to abolish the South East Plan, local authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas. The Core Strategy will set the target pitch figure for the Borough for the period 2006 to 2016. The Core Strategy will contain a gypsy and traveller policy to assess any windfall sites.
- 5.3.8 The Local Development Scheme Priority Documents were considered by Cabinet on 8<sup>th</sup> June. In relation to the Gypsy and Traveller Pitch Allocations DPD, Cabinet agreed to no longer pursue this as a specific DPD but instead to merge it with, and allocate pitches within the overall Land Allocations DPD (under a new title of Development Delivery DPD). (The Land Allocations DPD will allocate the specific sites for residential and non-residential development, as well as dealing with landscape designations and village boundaries).
- 5.3.9 Issues of need are dealt with below but, in terms of broad principles, Development Plan Policy and Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

## **5.4 Gypsy Status**

- 5.4.1 Circular 01/06 defines gypsies and travellers as: "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."
- 5.4.2 I am satisfied that the two Smith families comply with the above definition. The application documentation includes their father's Romany Guild membership card and photographs which clearly indicate a traveller lifestyle. There are also copies of letters from a metal stockholder/fabricator, a fencing company and a resident of New Barn that essentially testify to the gypsy status of the families and provide character references. They would seem to have a nomadic existence in terms of their employment. It should be pointed out that, in seeking permission, there is no need to demonstrate a local connection.

## **5.5 Need for Gypsy Sites**

5.5.1 Clearly there is a requirement for the Council to provide gypsy accommodation and this is set out in Government Guidance in both PPS3 and in Circular 01/2006. To ensure that the Council provides adequate gypsy accommodation a Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned to assess the level of need for gypsy accommodation.

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

5.5.3 However, the pitch requirement revealed in the GTAA assumed that 6 pitches on local authority owned sites across the four authority areas would become available each year through genuine vacancy. For Maidstone Borough, this would assume that 3 pitches/year would become available on the two sites the Council owns totalling 15 pitches over the five years. In fact only 3 genuine vacancies have occurred since April 2006. In the circumstances the overall pitch requirement became 44 pitches for the whole 5 year period.

5.5.4 Since April 2006 the following permissions for pitches have been granted (net):

- 44 Permanent non-personal permissions
- 9 Permanent personal permissions
- 8 Temporary non-personal permissions
- 26 Temporary personal permissions

Therefore a net total of 53 permanent planning permissions have been granted since April 2006.

5.5.5 The Council has agreed its public consultation draft pitch requirement for the period 2006 to 2016 for inclusion in the draft Core Strategy as 71 pitches so there is currently a shortfall of 18 pitches.

5.5.6 In terms of unauthorised pitches, based on the January 2011 count and according to the Council's database at the time of writing this report, there are 86 unauthorised mobile homes and 69 touring caravans. However, 28 of these mobile homes are 'tolerated' at a large site known as Plumtree Bottom in Stockbury. Here 15 sites were served enforcement notices in 1999 which in effect allow a set number of mobile homes on each plot (total of 34). As such, I consider the number of unauthorised mobile homes is 58.

5.5.7 Numerous Inspectors at appeal consider that the level of unauthorised mobiles is an indication of general need; however, I do not consider this to be currently overriding.

5.5.8 It is considered that the Council has met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues beyond April 2011.

## **5.6 Visual Amenity**

5.6.1 The application site is located within the Greensand Ridge SLA: an area designated for its landscape value where a key issue is the impact of the development on the character of the landscape. The site occupies a position essentially in the middle of a grassed field. The hedge along the south side of Lughorse Lane is approx. 2 to 2.5m high at its highest and provides some patchy screening from that highway but there are clear medium and short range views into the site from that lane, particularly from the north west and north. Short range views from the east are partially screened by the thin hedging that marks the eastern boundary of the application site and there is significant trees and hedging to the south which blocks most views. Due to intervening hedging and trees, there are no significant long range views into the site.

5.6.2 In my view, the scale of the development proposed and the exposure of the site to medium and short range views is such that the development would cause significant localised harm to the character of the SLA. The harm is somewhat lessened by the fact that the site is not located directly by the roadside but rather set back from Lughorse Lane by approx. 60 to 70m, whilst there is a backdrop of trees in views from Lughorse Lane. As well as views from the lane there would obviously be clear views from the public footpath that crosses the western margins of the site. Proposed new hedging on the northern and southern edges of the site would take a considerable period to mature and become effective.

5.6.3 Whilst the harm to character would be significant, I do not consider there would be a concentration of sites in this locality such as to warrant a refusal of permission on that ground. Whether or not the traveller site to the south is allowed to remain or not (MA/10/1336 refers) I do not consider that a combination would amount to an over-concentration. Two mobile homes are proposed here and I am of the view that the proposed two plots would not dominate the settled community, in terms of visual amenity or any other planning issue, nor would they place undue pressure on the local infrastructure.

## **5.7 Landscaping**

5.7.1 The site is devoid of significant trees and shrubs and so this application raises no significant tree-related issues. As stated above it is proposed to plant new hedging but that would take a considerable period to mature and become effective as a screen to the caravans and new buildings.

## **5.8 Ecology**

5.8.1 An ecological survey has been submitted. The report concludes that the site is of negligible biodiversity value being comprised of grazed improved grassland. The planting of hedgerows of native species would represent a small scale ecological enhancement. The KCC Biodiversity Projects Officer agrees with the content of the ecological statement and therefore there are no reasons to object on ecology grounds.

## **5.9 Residential Amenity**

5.9.1 The site has no near neighbours and has no significant adverse impact on residential amenity. The nearest dwellinghouse is approx. 200m away from the proposed siting of the caravans.

## **5.10 Highways**

5.10.1 I consider the local highway network adequate in terms of accommodating the relatively low level of vehicle movements involved. On the issue of access, the point of access already exists and serves the existing traveller site. The case officer has examined the visibility at the point of access and considers it acceptable to serve the two plots proposed. There is plenty of land shown available for parking. If planning permission is to be granted I recommend an informative reminding the applicants of the need to ensure that vegetation is controlled around the access to Lughorse Lane to maintain exit visibility.

5.10.2 It is inevitable that gypsy traveller sites will be located beyond the bounds of settlements and within the rural area. In my view this site is not so remote from basic services and public transport opportunities in Coxheath and Yalding as to warrant objection on the basis that this is not a sustainable location.

## **5.11 Equestrian use and Stables**

5.11.1 The application proposes the erection of a stable block. It is quite common for gypsies to keep horses and, should permission be granted, I do not consider that such a use would have any significant negative impact on the character, amenity and functioning of the area. The building is small and typical of equestrian structures to be found throughout the countryside, but it would form a part of

the group of caravans and buildings that I have concluded above would have a significant negative impact on the countryside.

## **5.12 Drainage**

5.12.1 Foul drainage is stated as being dealt with by way of a septic tank and surface water drainage via a soakaway. The Environment Agency has no comment other than pointing to the need for an Environmental Permit, or an exemption from permitting. There is no evidence that this form of drainage disposal would not be appropriate here and no grounds to object to this application on drainage grounds.

## **5.13 The Public Footpath**

5.13.1 The presence of the public footpath and the views of the site from it in terms of the impact on the character of the SLA is discussed above. From the comments of The KCC Public Rights of Way Officer access along the footpath could be preserved by the creation of a 2m wide line through the site with the detail of any fencing, gates, etc. being the subject of resolution between the applicants and the KCC officer. I recommend an appropriate condition preventing occupation until that issue is satisfactorily resolved.

## **5.14 Other matters**

5.14.1 This land is not denoted as falling within the best and most versatile agricultural land and there is therefore no reason to object on the loss of such land.

## **5.15 Temporary Planning Permission**

5.15.1 I consider that the development proposed would cause significant localised harm to the countryside but, having come to this conclusion, it is necessary to consider whether temporary planning permission would be appropriate in this case.

5.15.2 I have given consideration to the transitional arrangements as set out in Circular 01/2006. Paragraphs 45 and 46 are particularly relevant in considering planning applications in circumstances where no sites have been provided through the Development Plan process. Inspectors have found that there is a substantial unmet need for sites and there are no alternative suitable sites that are available and affordable. The DPD process will take around three years before sites are identified. In these circumstances, the advice in the Circular is that substantial weight should now be given to the unmet need in considering whether a temporary planning permission is justified.

5.15.3 As discussed above, there would be significant harm caused to the environment from the proposed development but this harm would be lessened if only a temporary permission were to be granted. On the balance of issues I consider that the general need to provide sites outweighs the environmental harm caused by a permission for only a limited period.

5.15.4 No particular personal circumstances have been put forward in this application, other than the need for accommodation and the provision of health and education, given the presence of young children. Whilst I give this some weight, I consider the general need to provide site is of considerably greater importance.

## **6. CONCLUSION**

6.1 This site is poorly screened and I conclude that the development of it to provide plots for two gypsy families would cause significant localised harm to the character of the SLA. However, on balance, I consider that the need to provide sites in advance of the finalisation of work on the Core Strategy and Land Allocations DPD is such that a temporary permission for two years would be the most appropriate recommendation.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be for a limited period of 3 years from the date of this decision. At the end of this period, or when the site ceases to be occupied by gypsies or travellers as defined in paragraph 15 of ODPM Circular 01/2006, whichever shall first occur, the use hereby permitted shall cease and all caravans, hardstandings, structures, materials and equipment brought on to the land in connection with the use, including any wash rooms, waste recycling enclosures and stables, shall be removed in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority:

Reason: The development is considered to cause visual harm to the character of the area. A temporary planning permission has been granted as there is a reasonable expectation that sites will become available through the production of a Land Allocations DPD Document by the end of the period specified. This is in accordance with advice contained within ODPM Circular 01/2006.

2. Before works start on the construction of the utility blocks and stables building, full written details of the proposed external materials to be used in those buildings shall be submitted to and approved by the local planning authority;

Reason: In the interests of visual amenity. This in accordance with Policies ENV28

and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC6 of The South East Plan 2009.

3. No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 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 Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC4 of The South East Plan 2009.

4. This site is not to be used as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements pursuant to Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This in accordance with Maidstone Borough-Wide Local Plan 2000 Policies ENV28 and ENV34 and The South East Plan 2009 Policies CC1 and CC6.

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

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside in accordance with Maidstone Borough-Wide Local Plan 2000 Policies ENV28 and ENV34 and The South East Plan 2009 Policies CC1 and CC6.

6. Before development commences details of any proposed external lighting within the site shall be submitted for approval in writing by the Local Planning Authority. No further external lighting shall be installed at the site beyond that approved under this condition;

Reason: To safeguard the character and appearance of the countryside in accordance with Maidstone Borough-Wide Local Plan 2000 Policies ENV28 and ENV34 and The South East Plan 2009 Policies CC1 and CC6.

7. The stable building and equestrian use of land hereby permitted shall only be used for the private stabling and keeping of horses in the ownership of the occupiers of the lawful residential use of the site hereby permitted and when no longer used for these purposes shall, together with any other related development, be demolished and the resulting material removed from the land to the satisfaction of the Local Planning Authority;

Reason: To ensure that adequate security and supervision is provided for the animals kept on the land in accordance with Policy ENV46 of the Maidstone Borough-Wide Local Plan 2000.

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

Drawing nos. MAI/08/SM/03 and 04 received on 3/9/11; and drawing nos. MAI/08/SM/01/A and 02/A received on 20/10/11;

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and Policies CC1 and CC6 of The South East Plan 2009.

9. The development shall not commence until full details of the means by which public access would be maintained on Public Footpath KM163 have been submitted to and approved by the Local Planning Authority in consultation with the Kent County Council Public Rights of Way Officer. The submitted scheme shall include details of any associated fencing, gates, etc. and the approved access arrangements shall be fully implemented before the use hereby permitted commences and maintained thereafter:

Reason: In order to ensure that the public footpath continues to provide adequate public access in the interests of rural amenity. This in accordance with Policy ENV26 of The Maidstone Borough-Wide Local Plan 2000.

### **Informatives set out below**

The ground level vegetation on either side of the point of access to Lughorse Lane shall be maintained so that adequate exit visibility is always available.

The applicants are advised to seek the advice of The Kent County Council Public Rights of Way Officer in drawing up the details re: the safeguarding of the public footpath.

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



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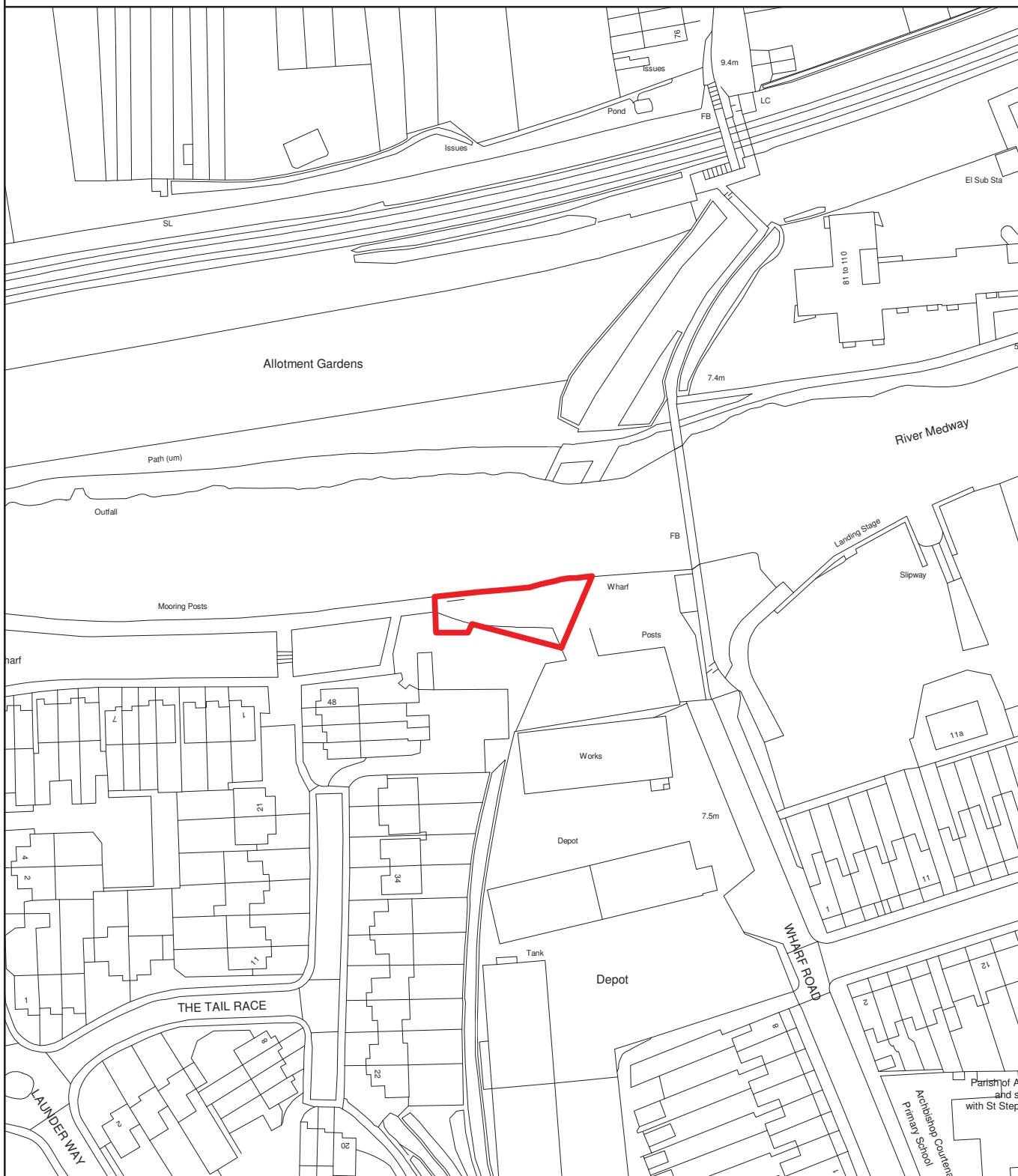


# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1893

GRID REF: TQ7554

LAND BETWEEN MILLERS WHARF AND,  
WHARF ROAD, TOVIL.



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**Rob Jarman**  
**Head of Development Management**

APPLICATION: MA/10/1893 Date: 1 June 2011 Received: 1 June 2011

APPLICANT: Mrs E Black

LOCATION: LAND BETWEEN MILLERS WHARF AND, WHARF ROAD, TOVIL, KENT

PARISH: Tovil

PROPOSAL: Application for permission to lower and reinforce a river bank mooring as shown on drawing numbers BL/11/110.01, BL/11/110.02 and BL/11/110.03 received 1st June 2011.

AGENDA DATE: 21st July 2011

CASE OFFICER: Catherine Slade

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

- Councillor Derek Mortimer has called the application in for the reasons set out in the report.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000:ENV6, ENV22, ED25
- South East Plan 2009: CC1, CC6, CC8, NRM2, NRM4, C5, BE1, S5
- Village Design Statement: Not applicable
- Government Policy: PPS1 Delivering Sustainable Development, PPS9 Biodiversity and Geological Conservation, PPG13 Transport, PPS23 Planning and Pollution Control, PPS25 Planning and Flood Risk

## **2. HISTORY**

- MA/83/1848 - 233 houses with roads, ancillary works and garages – APPROVED WITH CONDITIONS

2.1 Prior to the submission of the current application, an alleged breach of planning control, being the erection of a fence, was investigated adjacent to the site under ENF/11373. The case was closed on 6<sup>th</sup> October 2010 for the reason that planning permission was not required for the development. The fence remains in place, and is not the subject of the current application.

### **3. CONSULTATIONS**

- 3.1 **Tovil Parish Council:** wish to see the application approved, with the caveat that the recommendation for approval be restricted to the extent of fencing proposed under the current application. The Parish Council also indicated their wish that “any matters relating to waste disposal and other matters associated with mooring boats on the river should be the subject of a further planning application”. The Parish Council also request that conditions be attached to any permission requiring mandatory safety precautions; that the Environment Agency permission be forwarded to consultees; and the height of the river bank be restored once the lease expires.
- 3.2 **Maidstone Borough Council Environmental Health Manager:** raises no objection subject to the imposition of a pre-commencement condition requiring the implementation of the recommendations of the Soiltec Desk Study Report dated 21<sup>st</sup> February 2011.
- 3.3 **Maidstone Borough Council Landscape Officer:** raises no objection to the proposal, subject to the imposition of a pre-commencement condition requiring the implementation of the recommendations of the SylvanArb Arboricultural Report dated 23<sup>rd</sup> March 2011.
- 3.4 **Kent County Council Biodiversity and Ecology Officer:** raises no objection to the proposal and confirm that no ecological surveys are required to be submitted.
- 3.5 **Kent County Council Highway Services Officer:** raises no objection to the proposal.
- 3.6 **Kent County Council Public Rights of Way Officer:** raises no objection to the proposal, and confirms that the path through the site is not a public right of way as recorded on the definitive map.
- 3.7 **Environment Agency:** raise no objection to the proposal, but advise that the prior written consent is required for any proposed works or structures, in under, over or within 8m of the top of the bank of the River Medway, designated a “main river”, under the terms of the Water Resources Act 1991 and Southern Region Byelaws.
- The Environment Agency have also confirmed in writing that no flood risk assessment is necessary in regard to this application.
- 3.8 **Southern Water:** raise no objection to the proposal, but make the following comment:

"The application details for this development indicate that the proposed means of surface water drainage for the site is via an existing watercourse. 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."

3.9 **Upper Medway Drainage Board:** No response to the consultation to date.

#### 4. **REPRESENTATIONS**

4.1 **Councillor Derek Mortimer** wished to call the application in to Planning Committee in the event of a recommendation for approval for the following reasons:

- "1. Concerns regarding future permanent mooring of boats and possible living accommodation
2. Flood risk. This land floods regularly, water backs up onto Millers Wharf, Wharf Road and The Tail Race properties. The change of the line along the bank could affect the river current especially in flood.
3. Public footway access and safety.
4. This area of land is currently inaccessible by vehicle, any works carried out here would require the permission of adjoining land owners and the taking out of restriction posts to access the river bank. Wharf Road is unadopted.
5. Concerns about construction or installation of buildings on the site."

Councillor Mortimer has since confirmed that his reasons for the call in remain, and that his main concerns in respect of the application are safety as a result of the lowering of the wall which would allow easy access from a busy footpath with no lighting; the spread of contamination; and alterations to the wharf wall resulting in future flooding. He has also requested that a condition be applied to prevent the erection of sheds, etc. on the site.

4.2 **Councillor Mike Hogg** wrote a letter in support of the application on the grounds of improving the environment, reducing crime, and safeguarding the health and safety of the public. Councillor Hogg raised two issues, the provision of a life ring and a safety notice, drawing attention to the dangers that the river poses.

4.3 Councillor Hogg also wrote a letter in support of the application prior to his election as a Member, on the grounds that the proposal would encourage use of the river and reduce crime, and also noted that the appearance of the site had improved as a result of the works to date on the land.

4.4 Seven representations were received objecting to the application, which raised the following concerns:

- Prevention of access to the footpath adjacent to the River Medway to the south of the proposal site.
- Increased flooding.
- Increased disturbance due to recreational activities.
- Harm to the quality of the environment.
- Ownership of the land.
- Health and safety issues caused by the introduction of fencing, the uneven ground surface and lack of lighting.
- Compromise of future development to the south of the site.
- Overprovision of moorings on the River Medway.
- Impediment to navigation of the River Medway.

## **5. CONSIDERATIONS**

### **5.1 Site Description**

- 5.1.1 The proposal site, as identified on drawing BL/11/110.01, comprises a strip of the southern bank of the River Medway with an area of approximately 0.01Ha. The site is level, and is formed of made land stabilised through a retaining wall which forms the river side in this location. A bollard and two mooring rings are located within the proposal site for the purposes of mooring vessels. Although the site has not been formally landscaped, and is in fact hard surfaced, grass and other forms of vegetation have colonised the land, including self sown tree specimens such as a sycamore tree and group of ash and sycamore trees.
- 5.1.2 The site is located in the parish of Tovil, within the urban area of Maidstone as defined in the Maidstone Borough-Wide Local Plan 2000. The southern river bank represents the boundary of the urban area in this location, however the River Medway itself and the land immediately to the north of the river, comprising the northern river bank and Medway Valley railway, is designated as falling within the open countryside.
- 5.1.3 The proposal site is located within the flood plain area associated with the river. A Public Right of Way (PROW), the KB11, runs along the north bank opposite the proposal site.
- 5.1.4 The Riverside Zone of Special Townscape Importance ends approximately 29m to the east of the site, at the Tovil footbridge which provides pedestrian access between the land to the north and south of the river. Opposite the site are the remains of a former railway bridge, which appears to have previously continued across the river to the application site, from where it served various mills and works. As a result of this historic land usage of the proposal site and the surrounding area, it is likely that there is contaminated land on, or in close proximity to, the proposal site.

5.1.5 Notwithstanding the above, the current land uses in the immediate proximity of the proposal site are predominantly late twentieth century residential development to the south west and the Bridge Industrial Area to the south east of the site.

## **5.2 Proposal**

5.2.1 The proposed development comprises engineering operations to lower the river bank to provide better access to the River Medway for boat users. The proposed development includes the excavation of the existing river bank: the introduction of a new retaining wall and access steps from existing ground level to the lowered area; the provision of 6 bank side mooring poles; and the introduction of a fence to enclose the lowered area.

5.2.2 The proposed engineering operations would result in the lowering of the river bank by 1m relative to its current surface level. The lowered area would extend approximately 25.3m along the river front, and would have a width of approximately 1.5m, although this would vary due to the course of the River Medway in this location. Steps are proposed in the west of the site to provide pedestrian access between the two land levels.

5.2.3 The retaining wall and surfacing of the lowered area are shown on drawing BL/11/110.03 to be formed of reinforced concrete. The bank side mooring poles would be bolted into the upper surface of the lowered level, and to project 100mm into the river. The poles, which would have a diameter of 80mm, are proposed to be installed vertically adjacent to the river bank, for the purpose of allowing ropes to be passed around them for securing vessel. They would extend to a height of 2m above existing ground level, and 3m above the lowered ground level, and would be anchored into the river bed.

5.2.4 The tubular post and rail fence would be located immediately adjacent to the upper level for the purpose of providing a barrier to prevent harm to public safety. The fence would have a height of 1.2m above existing ground level.

5.2.5 For the purposes of clarity, I would like to make explicit that the application does not include a change of use of the land, nor the fencing to the south of the application site.

5.2.6 The use of the land is considered to be ancillary to the enjoyment of the river for public recreational use, and the application does not aim to secure its use for any other purpose, such as permanent or residential river moorings. The use of the structures for the mooring of craft on an ad hoc basis is considered to represent a purpose ancillary to activities associated with the use of the River Medway for recreational activities, and as such the use of the moorings is

considered to be equivalent to the use of the public highway for the parking of motor vehicles. It is therefore considered that the use of the bollards as set out in the covering letter dated 1<sup>st</sup> June 2011 does not require planning permission.

- 5.2.7 The post and rail and stock fencing currently on land to the south of the application site does not require planning permission, and is not included within the scope of this application.

### **5.3 Principle of Development**

- 5.3.1 The proposal site is predominantly located within the defined urban area of Maidstone, although the vertical elements of the proposal would project into the River Medway, which in this location is designated as being within the open countryside. The proposal is for operational development that would facilitate the use of the River Medway for recreational purposes, and as such the principle of the development is in general accord with Local Plan policy ED25, which supports the provision of small scale and shorter term moorings, subject to there being no loss of flood plain or land raising; harm to landscape or ecological quality of the locality; detrimental impact on highway safety; or harm to residential amenity.
- 5.3.2 In light of the location of the site in close proximity to the town centre, and within the defined boundaries of Maidstone, it is considered that the proposed development is acceptable in principle.
- 5.3.3 The key areas for consideration are therefore the visual impact of the development, the impact on residential amenity, implications of disturbance of contaminated land, and the impact on trees, as well as ecology and flooding.

### **5.4 Visual Impact**

- 5.4.1 The works are proposed to an area which is industrial in origin, comprising hard surfacing and made ground with associated bollards and mooring rings, albeit overgrown with grass and some self sown trees. Furthermore, the proposal would result in limited built development above existing ground level, and would be viewed from the key public vantage point on the north of the river in the context of the concrete and metal pilings which support the river bank in this location, and the brick foundation of the now demolished railway siding.
- 5.4.2 Whilst a condition requiring the imposition of a landscaping scheme has been considered, in the circumstances of this case it is considered that the extent of the land within the control of applicants available for landscaping and the limited additional harm that would be caused by the proposed development are such that such a condition is unnecessary and unachievable.

5.4.3 For these reasons, in the circumstances of this case it is considered that the visual impact of the proposal would be limited, and acceptable, and that in the circumstances of this case a landscape condition is neither necessary nor achievable.

## **5.5 Residential Amenity**

5.5.1 The nearest property is located approximately 24.5m from the site. Whilst objections received on the grounds of disturbance resulting from use of the mooring points are noted, there are existing structures on the site that can be used for such purposes, and therefore it is concluded that any additional harm caused by the proposed development would be limited.

## **5.6 Contaminated land**

5.6.1 As stated above, the proposal site is located on land known to have been formerly occupied by a railway siding serving land with an extensive history of heavy industrial use, and as such is likely to be contaminated with potentially harmful substances such as heavy metals.

5.6.2 The existing river bank represents a barrier between the contamination source and the river, and the proposal would result in the disturbance of this relationship, with potential for contamination of the aquatic and atmospheric environments to occur.

5.6.3 This hypothesis is supported by the desk top study submitted in support of the application.

5.6.4 The report identifies the potential for contamination firstly to be present, and secondly to migrate in paragraphs 74.1, 74.2 and 74.3 of the report. The report goes on in Section 7.5 to set out a programme for the investigation and remediation of land contamination. The Maidstone Borough Council Environmental Health Officer has confirmed that the findings and recommendations of the report are accepted, and therefore that no objection is raised subject to the imposition of a pre-commencement condition requiring the implementation of the recommendations of the Soiltec Desk Study Report dated 21<sup>st</sup> February 2011. The Environment Agency were consulted with regard to the report, and raise no objection to the proposal.

5.6.5 For the reasons set out above, I consider that the applicant has adequately addressed potential issues of contaminated land, and that therefore there is no objection to the proposal on these grounds, subject to the condition referred to above.



## **5.7 Landscaping**

- 5.7.1 The applicant has submitted an arboricultural report in support of the application, which concludes that the proposal would result in the loss of a sycamore tree and sycamore/ash group, both of which are located in close proximity to the existing river wall, and are self seeded. The report concludes that the loss of these specimens is acceptable, and the Maidstone Borough Council Landscape Officer concurs with the findings of the report, subject to the a condition requiring implementation of the recommendations of the report in respect of protection measures for the remaining specimens to the south of the proposal site, and replacement planting in a more sustainable location adjacent to the site.
- 5.7.2 Notwithstanding the comments of the Landscape Officer, in this case, given the limitations on the extent of the proposal site it is not considered appropriate to impose a condition requiring the planting of a replacement tree or additional landscaping. A condition should, however, be imposed requiring adherence to the recommendations of the SylvanArb report in order to safeguard the survival of the specimens to be retained, which would play a positive role in maintaining the character and appearance of the river bank in this location, particularly when viewed from the public footpath on the northern bank of the river and the foot bridge.

## **5.8 Other Matters**

- 5.8.1 The Kent County Council Biodiversity and Ecology and Highway Services Officers raise no objection to the proposal.
- 5.8.2 Concern has been raised with regard to the implications of the proposed development on flood risk. Whilst the site is known to be located in an area recorded by the Environment Agency as being prone to flood, the proposed development is considered to be flood compatible, and it is not considered that the development would result in increased flood risk elsewhere. The Environment Agency have raised no objection to the proposal, and it is concluded on these grounds that there is no objection to the proposal for reasons related to flood risk.
- 5.8.3 Significant concern has been raised with regard to the pathway to the south of the river bank. This footpath is not a public right of way, and is not included within the proposal site. As such it is not a matter for consideration in the determination of the application.
- 5.8.4 The ownership of the land has also been queried by interested parties, however the applicant has supplied ownership certificate D (identity of owners unknown)

and published a press notice, and as such the requirements in relation to ownership of the land have been satisfied in respect of the application.

- 5.8.5 Concern has also been raised with regard to potential impediment of navigation of the river as a result of mooring of boats. The river in this location has a width of 22.5m, and as such it is considered that the mooring of vessels of the scale capable of using the Medway above Allington Lock is unlikely to prevent other craft from using the waterway.
- 5.8.6 Whilst concerns have been raised with regard to the use of the proposed moorings for residential occupation, such a use would require planning permission, and is not included in the scope of the current application.
- 5.8.7 Various conditions have been requested by consultees including Local Members and the Parish Council. Of these, the suggestion that safety notices and a life belt be provided on the site is considered to be appropriately dealt with as an informative, as is the suggestion that any Environment Agency consent obtained be forwarded to the Parish Council, as set out below. The requirement for the river bank to be restored to its previous conditions is considered to be excessive, and to fail the tests of Circular 11 of 1995, in as far as the proposal is acceptable in principle, and therefore that the condition would be unnecessary. Likewise, the condition suggested by Councillor Mortimer is considered to be inappropriate in this case, as any future permanent built development on the site would require the benefit of a further planning application.

## **6 CONCLUSION**

- 6.1 For the reasons set out above, it is considered that the proposal would be visually appropriate in the context of the setting, and would not result in significant harm to amenity or the quality of the surrounding area.
- 6.2 It is therefore concluded that the application should be approved subject to conditions, as set out below.

## **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. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction- Recommendations' and as per the recommendations set out within the SylvanArb Arboricultural Report dated 23rd March 2011. 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 appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1 and CC6 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development.

3. No development shall take place 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 the provisions set out in Planning Policy Statement 23 Planning and Pollution Control.

### **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).

A lifebelt (or similar) and warning sign should be permanently affixed to the fencing hereby permitted and maintained hereafter in order to prevent harm to human life.

The applicant is advised that the Kent County Council Public Rights of Way Officer should be contacted in the event that the adoption of the footpath to the south of the proposal site as a public right of way is sought.

The applicant is advised that copies of any consents obtained from the Environment Agency in respect of the development hereby permitted should be provided to the Parish Council.

Please note that the use of the site for long term or permanent residential moorings, or the introduction of any further built development (unless permitted under the Town and Country Planning (General Permitted Development) Order 1995 (as amended)) will require the benefit of planning permission.

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

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15.12.2010



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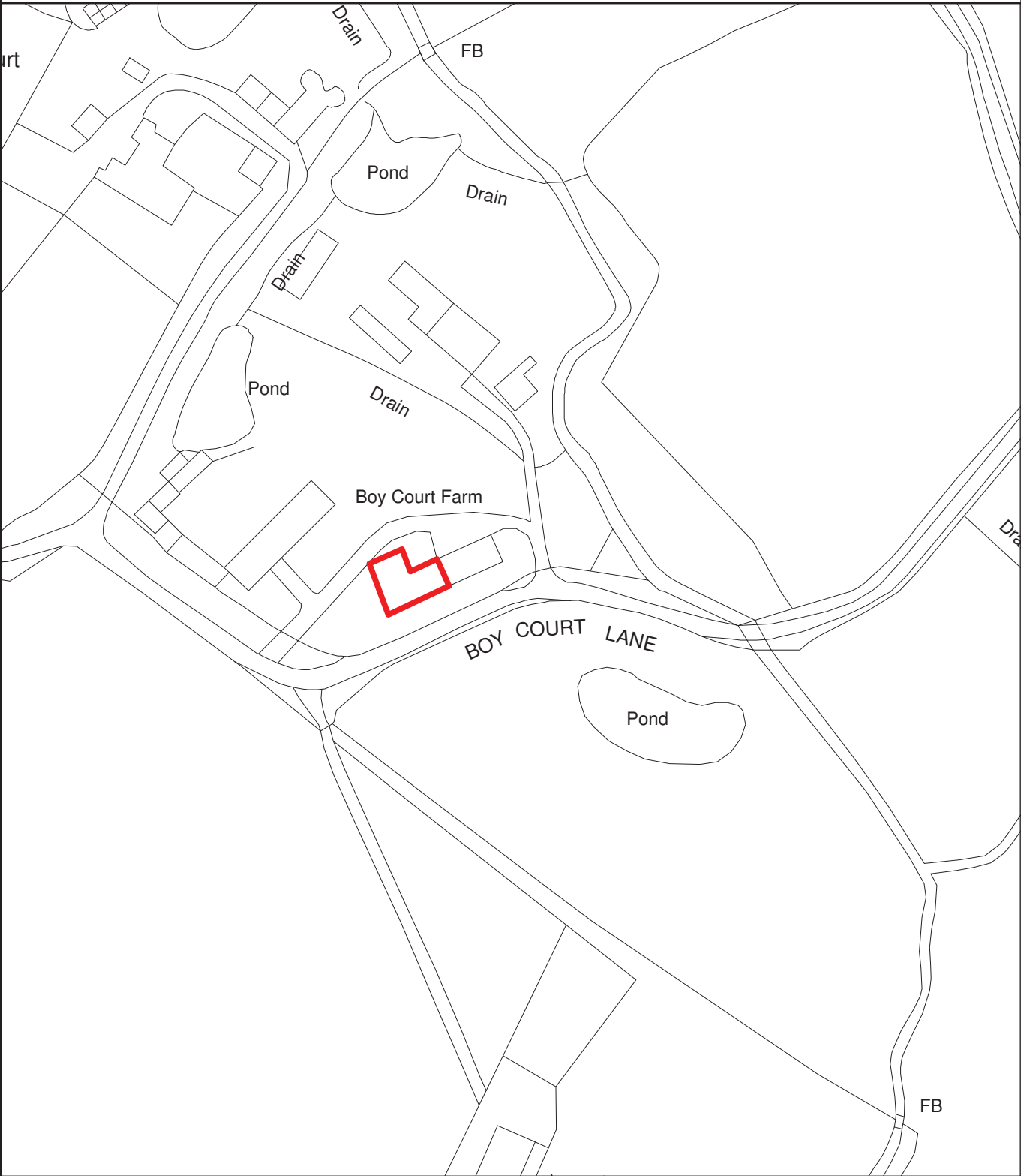


**THE MAIDSTONE BOROUGH COUNCIL**

**PLANNING APPLICATION NUMBER: MA/10/2062**

**GRID REF: TQ8446**

**BOY COURT FARM HOUSE,  
BOY COURT LANE, ULCOMBE.**



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**Rob Jarman  
Head of Development Management**

APPLICATION: MA/10/2062 Date: 23 November 2010 Received: 31 December 2010

APPLICANT: Messrs. P & H Easton

LOCATION: BOY COURT FARM HOUSE, BOY COURT LANE, ULCOMBE, ASHFORD, KENT, TN27 9LA

PARISH: Ulcombe

PROPOSAL: Conversion of barn to dwellinghouse as shown on a site location plan, drawing nos. plan 1, 1a, 2, 3, 4, 5, 6 and supported by a Design and Access Statement received on 23 November 2010 and a block plan received on 31 December 2010.

AGENDA DATE: 21st July 2011

CASE OFFICER: Janice Tan

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

- it is contrary to views expressed by the Ulcombe Parish Council

### 1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34, ENV45, T13
- South East Plan 2009: CC1, CC6, NRM4, C4, T4
- Village Design Statement: N/A
- Government Policy: PPS1, PPS7,

### 2. **HISTORY**

MA/05/2254	Extension to existing garage and store to provide a dry workshop and store (mainly for timber and wood products)	Approved with conditions
MA/88/0873	Details of conversion of C18 barn to dwelling.	Withdrawn
MA/88/0872	Details of conversion of C18 barn to dwelling.	Approved with conditions

### 3. **CONSULTATIONS**

3.1 **Ulcombe Parish Council** wish to see the application approved due to the applicant's circumstances as explained in his statement.

- 3.2 **Maidstone Borough Council Conservation Officer** recommended that the application be refused on heritage grounds. He has stated that although the building to be converted is attractive and traditional in appearance, it is only about 5 years old. There is therefore no historic building justification for the conversion of this rural building to residential use.
- 3.3 **Headcorn Aerodrome** advises that the site is close to the Aerodrome and within the area covered by the safeguarding map. They do not wish to inhibit the development unnecessarily provided that both planning committee and the applicants themselves believe that the development will not be in any way inconsistent with the existing and well established use of and activity at Headcorn Aerodrome.

#### **4. REPRESENTATIONS**

- 4.1 Three representations were received, one objection, one in support and one remaining neutral but highlighted the concerns for the protection of bats and owls. Their comments are as follows:
- The submitted documents do not demonstrate that consideration has been given to environmental matters such as disruption to bats and owls.
  - The new barn was erected with the idea of converting it to a house. A third dwelling within the farmstead would constitute an over development of the site which would have a detrimental effect on the character of the area and would make it a high density of housing on the corner of the lane.
  - The principle of Mr Easton being able to continue to conveniently live in a place that has been his cherished home would be acceptable.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

- 5.1.1 The site is within a farmstead located on the north side of Boy Court Lane within the open countryside designated as a Special Landscape Area. It is approximately 1.9km to the northeast of Headcorn village
- 5.1.2 The farmstead comprises a former barn (known as Boy Court Farm House) that has been converted to two residential units, a four bay pitched roof oak framed open fronted garage (built in 1994) space with a newly built extension at its southwest end (some 18m to the southeast of the farmhouse), and four agricultural buildings that lie in excess of 35m to the northeast of the farmhouse.
- 5.1.3 The application site encompasses an area of 0.06 hectares. It relates to the newly constructed workshop extension (approved under application reference MA/05/2254) at the southwest end of the four-bay open fronted garage with

associated garden to the southwest and stretching between the southeast side of the building and Boy Court Lane.

- 5.1.4 There are two vehicular accesses from Boy Court Lane serving the site: One is 25m to the southwest and the other is 20m to the east of the site. These vehicular accesses serve the existing open fronted garage building, its workshop extension and the hard standing area in front (adjacent to the north side of the garage block).
- 5.1.5 Public footpaths KH336A and KH335 lie some 60m to the northwest and 35m to the southwest of the site respectively.
- 5.1.6 The site is partially screened by hedgerows and mature trees from the public highways but is clearly visible from the southwest vehicular access gap into the site when viewed from Boy Court Lane.

## **5.2 Background**

- 5.2.1 When planning permission was granted on 19 January 2005, under MA/05/2254, to extend the four-bay garage/store to provide accommodation for a workshop/store, it was established that there was no proven need for this extension in terms of the agriculture enterprise of the farm. In view of this, planning permission was granted for the workshop/store on the basis that the extension is to a domestic outbuilding used by the occupiers of the Boy Court Farm House.
- 5.2.2 The extension was completed in 2010 and is currently used mainly as a domestic/workshop store.

## **5.3 Proposal**

- 5.3.1 The application proposes to change the use of the newly constructed garage extension granted under MA/05/2254 into a self-contained one-bedroom dwelling to be occupied by the applicant and his wife. The applicant is a retired disabled farmer, currently living in Boy Court Farm House. The intention is that he would move into this new dwelling allowing his son and family to occupy the main house. This would allow his son to take over the running of the farm encompassing approximately 140 acres of agricultural land that is currently let out to other farmers as grazing land.
- 5.3.2 The application site comprises the southwest extension to the large outbuilding east of the farmhouse and the associated garden area to the southwest stretching between the southeast side of the outbuilding and Boy Court Lane including the shrubbery area at the northeast end of the outbuilding.
- 5.3.3 There would be a car parking space allocated for the new dwelling on the eastern side of the extension to be converted and within the existing forecourt of the farmstead.

- 5.3.4 The application proposes to insert six panel glazed folding patio doors behind the existing oak frame and a glazed triangular window on the south facing roof gablet. Three narrow windows would be inserted in the east elevation facing the hedgerow site boundary with the Boy Court Lane. A pair of windows would be inserted in the west flank facing the vehicular entrance and maintained garden area associated with the main house. Another pair of windows would be inserted beside the existing doorway of the extension.
- 5.3.5 The existing grassed area surrounding the southwest and southeast and the shrubbery area at the northeast side of the outbuilding would be the garden area associated with the new dwelling. The existing boundary hedgerow adjacent to the highway would be retained and would form the southeast residential curtilage of the new dwelling. There is no indication shown on the submitted drawings of proposed boundary fences on the western boundaries of the application site.

## **5.4 Principle of Development**

- 5.4.1 New development in the countryside, particularly new housing is tightly restricted under the terms of Development Plan Policy and Central Government Guidance.
- 5.4.2 Planning Policy Statement 7 – Sustainable Development in Rural Areas (PPS7) emphasises that "the focus for most additional housing in rural areas should be on existing towns and identified service centres"
- 5.4.3 PPS7 makes exceptions amongst other criteria for agricultural workers dwellings that have special justification. However, PPS7 requires the Local Planning Authority to strictly control such developments by assessing them against the 'functional need test' to establish whether it is essential for a full-time worker to live close to the agricultural enterprise for its proper functioning and the 'financial test' to establish whether the current farming enterprise is economically viable.
- 5.4.4 At the local level, policy ENV45 of the Maidstone Borough-Wide Local Plan 2000 makes an exception to the re-use of rural buildings for residential use provided that it is the only means of providing a suitable re-use for a listed building, an unlisted building of quality and traditional construction grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s) or other buildings which contribute towards the character of the countryside or which exemplify the historical development of the Kentish countryside.
- 5.4.5 Given that the applicant currently rents out his agricultural land to other farmers for grazing and as a retired farmer he would not be actively involved in the essential care of farming activities that are needed to be on hand day and night,

the proposed development would fail the functional test as set out in PPS7 as explained in item 5.3.4 of this report. In any event there is an existing satisfactory dwelling within the farmstead to fulfil this function.

- 5.4.6 The applicant does not claim that the conversion of the existing extension to a new dwelling is for an agricultural worker, but merely as a dwelling for his retirement from agriculture. In view of this, it would not be necessary for the applicant to submit a financial supporting statement to demonstrate that the current farming enterprise is economically viable because the proposal is essentially for a new dwelling in the countryside unrelated to the running of the agricultural business.
- 5.4.7 Whilst I note that the occupier of the proposed dwelling is for a retired farmer, PPS7, Annex A, paragraph 6 explains that retirement homes for farmers cannot be used to justify "the provision of isolated new dwellings as retirement homes for farmers".
- 5.4.8 The workshop/store extension is a new extension to an unlisted outbuilding that was built in 1994 and is ancillary to the main farm house. It is of no historic or architectural value to justify its conversion to residential use. The extension is currently considered as ancillary to the residential use of the house. However, to convert it into a separate self-contained dwelling independent from the farmhouse would create an unjustified additional dwelling in the countryside contrary to policy ENV45 of the Maidstone Borough-Wide Local Plan 2000 and advice given in PPS7.
- 5.4.9 Taking the above into consideration, the principle of the development is therefore not acceptable.

## **5.5 Visual Impact**

- 5.5.1 The height and form of the existing extension would not be altered. The proposed alteration to the elevations which includes the installation of a glazed screen behind the oak framed structure and insertion of windows in the external dark stained timber weatherboarding would result in a development that would be domestic in appearance and would destroy the simple character of the rural building and the neighbouring buildings within the farmstead.
- 5.5.2 I note that the garden area associated with the proposed dwelling is currently maintained as part of the garden of Boy Court Farm House and there is no indication in the submission that there would be proposed boundary treatments to separate the application site from the garden of Boy Court Farm House. However, Boy Court Farm House has an extensive garden area compared with the confined garden area associated with the proposed dwelling. In view of this, the intensified use of the application site together with its associated domestic paraphernalia would visually be harmful to the open character of the farmstead and the surrounding countryside.

## **5.6 Residential Amenity**

5.6.1 The proposed dwelling is some 35m away from the nearest dwelling which is Boy Court Farm House and therefore the development would not harm the residential amenities of neighbouring dwellings in terms of loss of daylight, sunlight, outlook and privacy.

## **5.7 Highways**

5.7.1 There is ample provision for off- road parking within the farmstead and therefore the development would not harm highway safety.

5.7.2 The applicant has stated that surface water drainage would be disposed by a sustainable drainage system. Whilst this method of disposal may be acceptable, no details have been submitted with the application. A condition would be required for the submission of such details if permission were granted.

## **5.8 Ecology**

5.8.1 The existing landscaped area surrounding the open fronted garage and its extension is currently a maintained lawn with boundary hedgerows and shrubbery. The proposed development would not affect the ecology that exists in the retained hedgerow and lawn areas surrounding the building.

5.8.2 Concerns have been raised in relation to bats and owls that may currently use the extension. However, given that the extension was completed last year it is unlikely that the proposed conversion of the extension would impact on bats and owls in the area.

## **5.9 Landscaping**

5.9.1 The proposed development would not significantly alter the existing landscape of the plot.

5.9.2 The application site concerns the conversion of the southwest extension of the open-fronted garage which includes an associated garden surrounding the garage block and its extension.

5.9.3 For the reasons given in section 5.5.2 of this report, the proposed dwelling would intensify the use of the application site and together with its associated domestic paraphernalia would visually be harmful, especially when seen from Boy Court Lane and the public footpath KH335 (35m south of the site) through the vehicular access and hedgerow gaps along side Boy Court Lane.

5.9.4 The intensified use of the associated garden would have limited impact on the ecology of the site. I do not consider a landscaping scheme to screen the new dwelling and its garden from view would overcome the unacceptability in

principle of a new dwelling in the countryside as previously explained in section 5.4 of this report.

## **5.10 Other Matters**

5.10.1 The applicant has explained that the conversion is for his occupation and not for commercial purposes and has suggested that a personal condition attached to him could be imposed to overcome the unacceptability of a new dwelling in the countryside.

5.10.2 Paragraph 14-42 of the Annex to Circular 11/95 requires conditions should only be imposed where they are necessary, reasonable, enforceable, precise and relevant both to planning and to the development. Circular 11/95 advises that conditions should not be imposed if the principle of the development is unacceptable on policy grounds.

5.10.3 Circular 11/95 explains that planning permission runs with the land. However, on occasions where there is an exceptional circumstance to grant permission for the use of a building or land which would otherwise not normally be allowed at a site because there are strong compassionate or other personal grounds for doing so, the permission should normally be made subject to a condition that would ensure that the named person would only benefit from the permission. However, Circular 11/95 states that this personal condition would scarcely ever be justified in the case of permission for a permanent building.

5.10.4 Whilst I sympathise with the applicant circumstances, I consider that a personal condition applied to this case would not be appropriate for the following reasons:

- a. Given the permanent nature of the extension, it would be difficult and unreasonable to enforce the removal of a residential unit that has been allowed to establish itself only to be removed at a later stage when the applicant no longer occupies the dwelling.
- a. The personal condition is also not necessary because it would not justify the unacceptability in principle of a new dwelling in an unsustainable location within the countryside away from community facilities and public transport and would fail to overcome the strong policy objection.

5.10.5 In this respect a personal condition would not be acceptable as it merely caters for the personal preferences and circumstance of an individual and is not essential for the functional need of the agricultural enterprise.

## **6. CONCLUSION**

6.1 Whilst I recognise that it is the intention of the applicant to hand over the management of the farm to his son who is intending to move into the farm house, the proposed new dwelling does not meet the "functional need test" or



the "financial test" of PPS7as explained in section 5.4 of this report and therefore does not justify a new dwelling in the countryside.

- 6.2 The proposed development would therefore promote an unsustainable pattern of development away from community facilities and reliant on the private car as a mode of transport and would consolidate the existing pattern of sporadic residential development in the countryside and with its associated domestic paraphernalia would result in an unjustified development that would be detrimental to the open character of the countryside. In view of this, the proposed development would be contrary to the policies of the Development Plan and PPS7.

## **7. RECOMMENDATION**

REFUSE PLANNING PERMISSION for the following reasons:

1. The proposal would result in the creation of a new dwelling in the countryside, for which no acceptable justification has been provided. To permit the development which is also in an unsustainable location, away from local services, and thus likely to be reliant on the private car as a mode of transport, would be contrary to policies ENV28 and ENV45 of the Maidstone Borough-Wide Local Plan 2000 and policies CC1, CC6 and C4 of The South East Plan 2009 and advice given in PPS1, PPS3 and PPS7.
2. The proposed dwelling would consolidate the existing pattern of scattered residential development in the rural area and together with its associated domestic paraphernalia would result in an unjustified development that would be detrimental to the open character and appearance of the farmstead and the surrounding countryside, contrary to policies CC1, CC6 and C4 of The South East Plan 2009 and policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and advice given in PPS1, PPS3 and PPS7.

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

**Item 15, Page 36**

**MA/10/2062**

**Boy Court Farm House**

**Boy Court Lane**

**Ulcombe**

**Ashford**

**TN27 9LA**

The last sentence on page 43 of the report should be omitted from the report.



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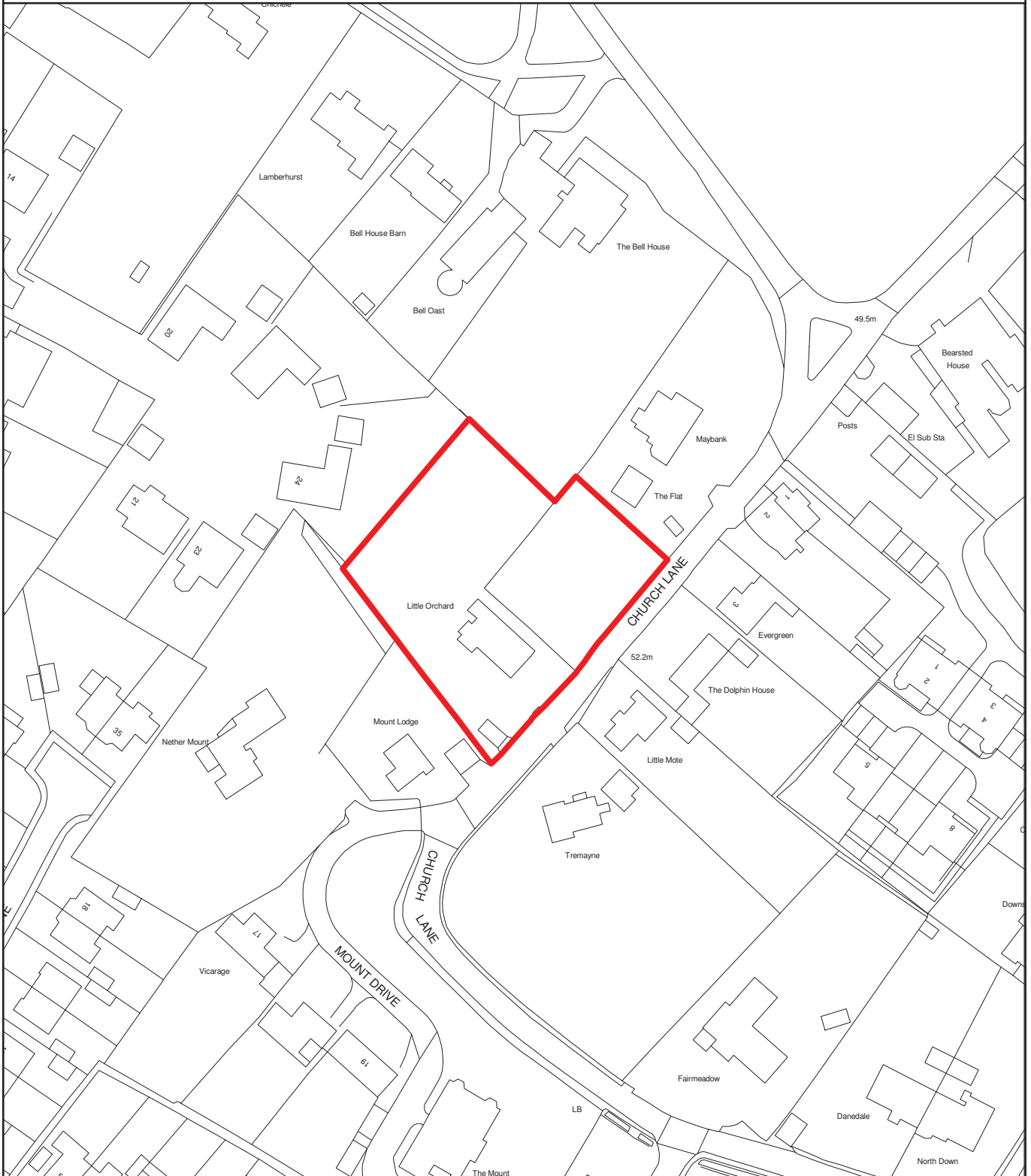


# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/2189

GRID REF: TQ7955

**LITTLE ORCHARD,  
CHURCH LANE, BEARSTED.**



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**Rob Jarman**  
**Head of Development Management**

APPLICATION: MA/10/2189 Date: 21 December 2010 Received: 23 June 2011

APPLICANT: Monro Homes

LOCATION: LITTLE ORCHARD, CHURCH LANE, BEARSTED, MAIDSTONE, KENT, ME14 4EF

PARISH: Bearsted

PROPOSAL: Erection of 5no. dwellings with garaging, parking provision, new driveway - amended design to that approved under reference MA/09/0760 as shown on site location plan and drawing nos. 020/P1/04A, SP/09/01/6A, SP/09/01P05A and SP/09/01/GARA received on 22/12/10; and drawing nos. SP/09/01/PO3D and 110601/L/1 received on 23/6/11.

AGENDA DATE: 21st July 2011

CASE OFFICER: Geoff Brown

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

- it is contrary to views expressed by Bearsted Parish Council and committee consideration has been requested

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13
- The South East Plan 2009: CC1, CC4, CC6, BE1, BE6, NRM5, H5, W1, W6, T4
- Village Design Statement: N/A
- Government Policy: PPS1, PPS3, PPS5, PPS9, PPG13

## **2. HISTORY**

The relevant planning history is as follows:

MA/10/1499 - Erection of 5no. dwellings with garaging, parking provision, new private driveway and associated works (amendment to MA/09/0760) - Withdrawn

MA/09/0760 - Erection of 5 No dwellings with garaging and parking provision and new private driveway (Resubmission of MA/08/1666) - Approved



MA/08/1666 - Erection of 8 No dwellings with garages and new highway and service roads – Refused

### **3. BACKGROUND**

3.1 This application was reported to the Planning Committee meeting of 9 June 2011. Members resolved to defer making a decision to allow negotiation on the following issues:

- A) A reduction in the level of hardstanding on the site.
- B) A detailed landscaping scheme to be submitted incorporating additional landscaping within the site.

### **4. CONSULTATIONS**

#### **On the original scheme:**

The comments of BEARSTED PARISH COUNCIL, THE CONSERVATION OFFICER, THE LANDSCAPE OFFICER and THE ENVIRONMENTAL HEALTH MANAGER were reported in my first committee report reproduced here as Appendix 1.

#### **On the amended scheme:**

I have not yet received comments from BEARSTED PARISH COUNCIL and THE ENVIRONMENTAL HEALTH MANAGER.

THE CONSERVATION OFFICER has no objection and comments that the amended plans represent an improvement.

THE LANDSCAPE OFFICER states:

"I have looked at the newly submitted details and raise no objection to the proposal on arboricultural or landscape grounds.

The trees to be removed on the southern boundary have been clearly identified on the site layout plan. As previously stated, I have no objection to their removal, subject to suitable replacement planting being provided. In terms of the trees to be retained on the site, the application is now accompanied by an arboricultural method statement detailing all of the proposed tree works and replacement trees to be planted. I consider all of the proposed works acceptable on arboricultural grounds. The consent for tree removals under tree applications TA/0033/10 and TA/0122/10 required by conditions for replacement trees to be planted –the proposed new trees would satisfy those conditions, in terms of their species and location.

In terms of other new planting, I welcome the increase of planting areas in general, particularly the native hedging around the site boundaries. Additional trees are to be provided over those previously required by conditions on tree applications and the proposed shrubs and bulbs are acceptable in terms of the Maidstone Borough Council Landscape Character Assessment and Landscape Guidelines. I would have preferred to see a slightly different choice of shrub planting that better reflected the character of the adjacent conservation areas, but do not consider that this is sufficient reason to refuse the proposal as it stands.

I therefore recommend that the application is approved on landscape and arboricultural grounds, subject to a standard landscape implementation condition requiring completion of the approved landscaping scheme in the first planting season and replacement of failures within the first 5 years."

## **5. REPRESENTATIONS**

### **On the original scheme:**

The comments of LOCAL RESIDENTS were reported in my first committee report reproduced here as Appendix 1.

### **On the amended scheme:**

I have not yet received any comments from local residents.

COUNCILLOR HARWOOD comments that the reduced extent of hardstanding and the greater sense of enclosure through the use of traditional hedging is to be welcomed and addresses the concerns of committee. Looking at the detail of the new planting he is in broad agreement but suggests amendments to some of the proposed species. I have invited the applicants to adopt these suggestions and will inform Members of their response in due course. My considerations and recommendations (below) are based on the scheme as currently submitted.

## **6. CONSIDERATIONS**

### **6.1 Further Considerations**

- 6.1.1 Following negotiation, the applicants have amended the plans to satisfy both of the above requirements. I have re-notified all parties on the amended details and any further comments that are received will be reported to Members at committee.

- 6.1.2 The overall areas of hardstanding on the site have been reduced, principally through the removal of a vehicular turning head that was previously proposed to the south of Plot 4; and the narrowing of the main access road in the vicinity of Plots 1 and 4 so that the width is reduced down to approx. 3.2m from the previously proposed 4.5m. A small bin collection area remains near Plot 4 but these 'hard' areas are now replaced by soft landscaping.
- 6.1.3 As Members requested, a fully detailed landscaping scheme has now been submitted (as opposed to dealing with proposed landscaping by way of conditions requiring further detail). The landscaping scheme now clearly details trees that have been consented to be removed; trees to be removed as a part of this scheme; trees to be retained; and new trees, shrubs and plants to be put in place. A comprehensive Arboricultural Method Statement is submitted and the proposed boundary treatments are now detailed.
- 6.1.4 I consider the reduction in the areas of hardstanding to be significant, particularly because the relevant areas are near the front of the site, prominent in views into the site from Church Lane. Their replacement with landscaping in the form of new specimen trees, native hedging along the margins of the access road and grassed surfacing represents a significant visual benefit. The applicants have not reduced the hardstanding areas in the vicinity of the garaging and the turning head as that would present difficulties for turning vehicles. I do not regard those areas at the back of the site as so important as they are not as prominently located as more sensitive locations towards the front of the site and around the access road.
- 6.1.5 Turning to the detail of the landscaping scheme, the information on the removal of trees is now more clearly presented and no further removals are put forward. A comprehensive planting scheme is now presented, the main features of which are the planting of specimen trees on the site frontage (silver birch, hawthorn and rowan), in the southern corner of the site and along the access road. A substantial amount of new hedging of indigenous species is proposed around the site, including along the whole of the site frontage and along the whole south western boundary. New hedging is proposed to fill gaps in existing lines and hedges are proposed between plots. Cordwood would be retained in the relatively undisturbed northern corner of the site where existing trees are to be retained, new hedging put in place and new bulb planting implemented. The Landscape Officer has no objection to the scheme and I consider that the comprehensive landscaping scheme now presented satisfies Members previously expressed concerns.
- 6.1.6 The developers have taken the opportunity to include details of boundary treatments on the latest amended plans (rather than deal with that later through a condition). Generally much of the site boundary has already been fenced by adjoining landowners or is marked by existing hedging. As stated above, gaps in

this hedging are to be filled and new hedges are proposed along the site frontage and south western boundary. Within the site hedging, low post and rail and post and wire fences would demark property boundaries with higher close boarded fencing being used generally towards the rear of plots. I consider the boundary treatment scheme (which is fundamentally linked with the proposed landscaping) to be acceptable.

## **7. CONCLUSION**

- 7.1 Following negotiation the applicants have amended the proposals to reduce hardstanding areas and provide details of a comprehensive landscaping scheme. In my view this fully addresses Members concerns and significantly improves the development in terms of the character of the area and the ecological value of the site. I recommend that planning permission be granted. Some of the conditions that I had previously recommended are no longer necessary given that comprehensive landscaping details have now been presented and I phrase my recommendation accordingly.

## **8. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:  
site location plan and drawing nos. 020/P1/04A, SP/09/01/6A, SP/09/01P05A and SP/09/01/GARA received on 22/12/10; and drawing nos. SP/09/01/PO3D and 110601/L/1 received on 23/6/11:

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with the advice in PPS1.

2. 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.

3. Before the first occupation of the dwelling on Plot 3, the windows within the rear first floor elevation (north-west) of that dwelling shall be provided and thereafter maintained with obscure glazing, and shall only have top hung openings.

Reason: In order to preserve the residential amenities that the occupiers of the adjoining neighbours currently enjoy in accordance with PPS1 and PPS3.

4. The development shall achieve a score of Level 2 or better for each residential unit under 'The Code for Sustainable Homes'.

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

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the 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.

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

Reason: To ensure that nesting birds are not disturbed in accordance with PPS9.

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

APPLICATION: MA/10/2189 Date: 21 December 2010 Received: 18 March 2011

APPLICANT: Monro Homes

LOCATION: LITTLE ORCHARD, CHURCH LANE, BEARSTED, MAIDSTONE, KENT, ME14 4EF

PARISH: Bearsted

PROPOSAL: Erection of 5no. dwellings with garaging, parking provision, new driveway - amended design to that approved under reference MA/09/0760 as shown on site location plan and drawing nos. 020/P1/04A, SP/09/01/6A, SP/09/01P05A and SP/09/01/GARA received on 22/12/10; and drawing no. SP/09/01/P03C received on 18/3/11. As amended by emails dated 25/5/11 and 31/5/11.

AGENDA DATE: 9th June 2011

CASE OFFICER: Geoff Brown

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

- it is contrary to views expressed by Bearsted Parish Council and committee consideration has been requested

## 1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13
- The South East Plan 2009: CC1, CC4, CC6, BE1, BE6, NRM5, H5, W1, W6, T4
- Village Design Statement: N/A
- Government Policy: PPS1, PPS3, PPS5, PPS9, PPG13

## 2. **HISTORY**

The relevant planning history is as follows:

MA/10/1499 - Erection of 5no. dwellings with garaging, parking provision, new private driveway and associated works (amendment to MA/09/0760) - Withdrawn

MA/09/0760 - Erection of 5 No dwellings with garaging and parking provision and new private driveway (Resubmission of MA/08/1666) - Approved

MA/08/1666 - Erection of 8 No dwellings with garages and new highway and service roads - Refused

### **3. CONSULTATIONS**

BEARSTED PARISH COUNCIL initially stated:

"The parish council has discussed the above application and wishes it to be refused and reported to the planning committee for the following reasons:

- The chimney stack on plot 5 has an impact on the NE boundary of the development. The boundary has a high hedge screening Maybank from the development, a hedge which is to be maintained by the developers at 3m. The footings and brickwork which should be 1.5m from this boundary have been laid and are 1.15m from the boundary.
- The inclusion of a double garage instead of a single is not as stated in the application, additional parking, but additional building work.

There is additional concern regarding comments made by the developer in the application form. This questions whether there are trees and hedges on the site – which the developer has answered no to. As you are aware there are a number of trees on the site so why are these not referred to?"

Following consultation on further details the parish council wrote to reiterate its objections and enclosed a letter from Mrs Marshall MBE which raises the following points:

- a) This is an improvement on the withdrawn application [MA/10/1499] in terms of lower provision of car parking but there is still an over-provision of parking space.
- b) It is recognised that there is a planning permission [MA/09/0760] for the erection of 5 houses but the loss of trees and the impact on neighbouring properties is deplored.
- c) The presence of trees on and adjacent to the site is not properly recognised in the application.
- d) Planners appear to have missed the absence of chimneys on the approved scheme.

THE CONSERVATION OFFICER considers the scheme to be acceptable.

THE LANDSCAPE OFFICER has no objection (see discussion below).

THE ENVIRONMENTAL HEALTH MANAGER has no objection.

#### **4. REPRESENTATIONS**

THE OCCUPANTS OF 3 NEARBY DWELLINGS OBJECT and the following points are raised:

- a) The development would cause extra traffic that Church Lane and other local roads could not satisfactorily accommodate. There would be highway danger and harm to the living conditions of local residents.
- b) Work on this site is well advanced. Details appear to have been modified without waiting for the Council's consent.
- c) The application is misleading: substantial new garaging is now proposed not just minor changes.
- d) The new garaging would not be available to visitors.
- e) The new garaging would be harmful to the character of the Conservation Area and the setting of listed buildings. It would affect the outlook and amenities of neighbouring houses.
- f) External chimneys were not previously approved but appear now. The stack to plot 5 is too close to the north eastern boundary hedge and will damage it to the detriment of the neighbour's amenities.
- g) The existence of trees on and around the site is not properly recognised in the application documentation, including the yew tree at Maybank.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

5.1.1 The site lies within the urban area of Maidstone as defined in the Maidstone Borough-Wide Local Plan 2000. At present the site is a construction site (see history) but it previously accommodated a chalet bungalow, which was likely to have been constructed in the 1920's. There are a number of substantial trees around the edges of the site covered by Tree Preservation Order no. 09 of 2008, including substantial trees on the road frontage.

5.1.2 The site is bounded on the north eastern side by Maybank, a substantial listed building set within a corner plot, part of which fronts onto Bearsted Green. Within the grounds of this property, (and indeed closer to the application site), lies 'The Flat' which is a residential unit located over a double garage. To the south-west of the site lies Mount Lodge, a Victorian property which sits at a higher level to Church Lane (approx 2.5/3metres higher). To the north of the site lies The Bell House, which is set a significant distance away from the boundary of the site (over 45metres), with more modern properties sited to the north-west of the site. On the opposite side of Church Lane, there are a number of residential properties, all of which front on to this highway, albeit with differing set backs. These gardens contain a good level of soft landscaping, together with parking areas for motor vehicles.



5.1.3 The site lies adjacent to, but not within, two conservation areas (Bearsted and Bearsted Holy Cross).

## **5.2 Proposal**

5.2.1 Permission MA/09/0760 allows the erection of 5 No dwellings with garaging and parking provision and a new private driveway. The development is now almost complete but not in the manner approved. This current application represents proposed amendments to the approved scheme as discussed below.

5.2.2 The principle changes are:

- i) The enlargement of the garage at the western end of the site (ie between plots 1 and 2) from single to double.
- ii) The removal of the refuse store previously proposed close to the Church Lane frontage.
- iii) The realignment of pathways on the site.
- iv) Small changes to the elevations of the dwellings (principally internal layout and fenestration). The main elements of this being an additional first floor bathroom window in the side elevations of the dwellings on Plots 1 and 5; a rearrangement of the ground floor fenestration on Plots 2 and 3; the deletion of the balcony window and replacement with a more traditional window on the rear elevation of the Plot 4 dwelling; and the deletion of some first floor windows on various plots around the site.

The total number of parking spaces (both in garages and externally) has gone up from 11 to 13.

5.2.3 A previous application (reference MA/10/1499) to amend the approved scheme was withdrawn following concern expressed by officers that there would be an oversupply of parking spaces (for example, a triple garage was proposed between plots 3 and 5) and that the enlarged garages would harm the character of the area. In addition the wall to the site frontage would have been constructed wholly of brick which was considered to be a retrograde step. This current application before members seeks to address those concerns by reverting back to a double garage and by reducing the overall parking provision from 16 down to 13. Clarification has been received that the wall is of ragstone with brick piers and capping (and this has now been constructed).

## **5.3 Principle of Development**

5.3.1 A development of this broad type and scale has already been accepted by this Council through the grant of permission MA/09/0760. The significant issues here surround the planning impact of the proposed changes. Some of the

representations here seek to revisit that earlier application and I can give those representations little weight, given the decision to permit MA/09/0760.

## **5.4 Visual Impact**

- 5.4.1 In my consideration the proposed fairly minor revisions to the design of the dwellings are acceptable. Similarly the enlarged garage and driveway between plots 1 and 2 is reasonably well designed and would not have a significant adverse impact, not least because it is sited well into the site between the houses. The removal of the bin store from the front of the site is a positive step in terms of visual amenity and the realignment of pathways is appropriate.
- 5.4.2 A materials schedule has now been submitted which proposes multi-red stock bricks under clay tile roofs generally, with a range of clay tile hanging and cream coloured weather boarding and render according to design type. Timber joinery is proposed. I consider this palette of materials appropriate to the design approach and to the character of the locality. Bollard lighting is proposed with no street lighting columns. I agree with the Conservation Officer that the amended scheme is acceptable in the context of impact on the Conservation Areas and the setting of the listed buildings, including the neighbouring Maybank. I consider the development results in no harm to visual amenity.

## **5.5 Residential Amenity**

- 5.5.1 The amended scheme would not have a significant adverse impact on neighbours (including permitted dwellings to the south of the site) due to loss of light, outlook, privacy or increased noise and disturbance. The new double garage between plots 1 and 2 is a relatively small building with a fully hipped roof such that there would be no impact on housing to the west. I note the comments of the occupiers of Maybank but it seems to me that the new scheme is not significantly different to that already approved in terms of the impact on their amenities. The chimney stack between the flank wall of plot 5 and the Maybank boundary was shown on the previously approved scheme and is a part of this current application and I do not agree that it potentially compromises the neighbours' amenities. The leylandii hedge on that boundary is shown to be retained notwithstanding the Landscape Officer's view that it is of no particular amenity value.

## **5.6 Highways**

- 5.6.1 In broad terms the erection of 5 houses and the general impact on the highway has already been considered and accepted. On the parking issue, this Council does not have adopted parking standards. 13 spaces are now shown to serve 5 large dwellings and I consider this provision reasonable given Central Government's current stance on new developments and parking which

essentially allows developers, in most circumstances, to set an appropriate level of parking provision.

## **5.7 Landscaping**

### **5.7.1 The Landscape Officer comments:**

"These comments include my view on the information originally submitted for the application, together with the further information received, specifically a revised plan showing the trees present on the southern site boundary and a covering letter dated 14 March 2011. I have inspected the trees present on site.

I understand that this application seeks to amend the currently approved scheme, which is partially built. Changes to the approved scheme are proposed, but these are considered a significant departure from the original scheme, requiring a fresh application. Therefore, this proposal is similar to the one approved under MA/09/0760. I will only comment on the impact of the changes to the approved scheme that I have noted.

Please note that additional tree removals have taken place since the previously approved scheme. Consent has been granted separately for some of these, as applications under the Tree Preservation Order. This applies to G2, G12 (application TA/0033/10) and G13, T14 (application TA/0122/10). Their removal does not, therefore, constitute one of the changes being considered under this application.

The new front path to the front (east) of Plot 4 is welcomed on arboricultural grounds. It was put forward as a solution to inaccuracies in the plotting of trees on the original plans, which meant that implementation of the approved scheme under MA/09/0760 would necessitate the removal of mature trees on the Church Lane frontage. I am confident that no root damage will result as the roots of the trees have effectively been isolated from the site by airspade trenching and professional pruning by the developer's arboriculturalist.

I raise no objection to the slight alteration to the path from plot 5.

The removal of the bin store at the front of the site enables the re-routing of the Plot 4 pathway, with the added advantage of increasing the opportunity for planting near the site entrance, improving the appearance of the site from Church Lane, in my opinion.

The garage to Plot 2 is larger and consequently closer to T15. The submitted drawing indicates that it is at an acceptable distance from the tree.

The addition of previously omitted chimney breasts was only likely to affect the trees to the north of plot 5, but as the base of that chimney has now been constructed, I do not consider that further tree damage is likely as a result of approving the scheme with chimneys added.

The revised plan supplied includes the previously omitted T17 Cherry, which now appears to be accurately plotted in relation to Plot 1. The plan shows the trees to the south of plot 1 as being retained. However, the accompanying letter states an intention to remove them. I therefore recommend that clarification is sought from the applicant on which trees are to be retained and which are to be removed under this proposal.

I suggest that the submission of an arboricultural method statement is required by condition, to regularise the situation on site, particularly with regard to (acceptable) tree works that have already been undertaken in accordance with the recommendations of arboricultural method statement by Rhizoecology dated May 2010, but not formally approved.

The entire site is subject to an Area Tree Preservation Order, which protects all of the trees present on the site. The 'Area' designation does not identify trees according to their individual merit and whilst it contains trees of particular merit, it also includes a number of trees that, if assessed as individuals, would not be considered to merit continued protection. I consider that the trees to the south of Plot 1 fall within the latter designation and although their loss may be considered regrettable, would not have a significant impact on the character or amenity of the area. I also consider that the impact of their loss can be easily mitigated by suitable replacement planting.

The application lacks a fully detailed landscaping scheme and I recommend the use of standard condition(s) requiring one to be submitted, to include future management details, implementation and replacement of failures for a period of 5 years. The reference to 'trees to be retained and measures for their protection' should be removed from the standard wording of the condition, as this will be included within the arboricultural method statement."

- 5.7.2 It has subsequently been clarified that all of the trees to the south of Plot 1 would be removed and replaced. I conclude that there is no reason to object to this scheme on landscaping or arboricultural grounds.

## **5.8 Other Matters**

- 5.8.1 Confirmation has been received that the development will achieve Code Level 2 on the Code for Sustainable Homes (as was required by condition on the original MA/09/0760 permission). Foul Water will discharge to the foul water sewer and

surface water to soakaways: a Building Regulations Surveyor has confirmed that this is acceptable in principle.

5.8.2 It is regrettable that the current scheme has been implemented on site without the appropriate permission but that, in itself, is not a justifiable reason for refusal of a planning application. I have reviewed the conditions attached to the existing consent (MA/09/0760) and sought to impose similar conditions in my recommendation below. In considering such conditions it must be recognised that the development is almost complete and therefore some of them need to be deleted or modified to reflect the circumstances.

## **6. CONCLUSION**

6.1 This application involves amendments to a scheme already granted planning permission under reference MA/09/0760. I consider the changes to be acceptable in then context of the character, amenity and functioning of the area and I recommend that planning permission be granted.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. Within two months of the date of this permission 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 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 and PPS3.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
drawing nos. 020/P1/04A, SP/09/01/6A, SP/09/01P05A and SP/09/01/GARA received on 22/12/10; and drawing no. SP/09/01/P03C received on 18/3/11. As amended by emails dated 25/5/11 and 31/5/11;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with the advice in PPS1.

3. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by

the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

4. Before the first occupation of the dwelling on Plot 3, the windows within the rear first floor elevation (north-west) of that dwelling shall be provided and thereafter maintained with obscure glazing, and shall only have top hung openings.

Reason: In order to preserve the residential amenities that the occupiers of the adjoining neighbours currently enjoy in accordance with PPS1 and PPS3.

5. The development shall achieve a score of Level 2 or better for each residential unit under 'The Code for Sustainable Homes'.

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

6. Within two months of the date of this permission a scheme of landscaping shall be submitted to and approved by the Local Planning Authority. The scheme shall use indigenous species and include indications of all existing trees, hedgerows and boundary planted areas on the land, and details of any to be retained 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. The submitted details shall include inter-alia full consideration of the protection of potential slow worm habitats in and around the marginal boundary areas during construction;

Reason: No such details have been submitted and in the interests of the visual amenities of the locality, the safeguarding of existing trees, hedgerows, boundary planted areas and potential slow worm habitats to be retained in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS1 and PPS9.

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 Policy ENV6 of the Maidstone Borough Wide Local Plan 2000, and PPS1.

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

Reason: To ensure that nesting birds are not disturbed in accordance with PPS9.

9. Within 2 months of the date of this permission a detailed scheme for the retention 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.

10. Within two months of the date of this permission an Arboricultural Method Statement (AMS) shall be submitted for approval, to include details of any works or operations in the vicinity of retained trees both on and off site to avoid damage to trees. The AMS should be in accordance with the recommendations of BS5837 (2005) and include a schedule of any proposed pruning works to retained trees. The approved details shall be strictly adhered to.

Reason: To ensure the successful long-term retention of retained trees in the interests of the visual amenity of the area in accordance with PPS1.

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

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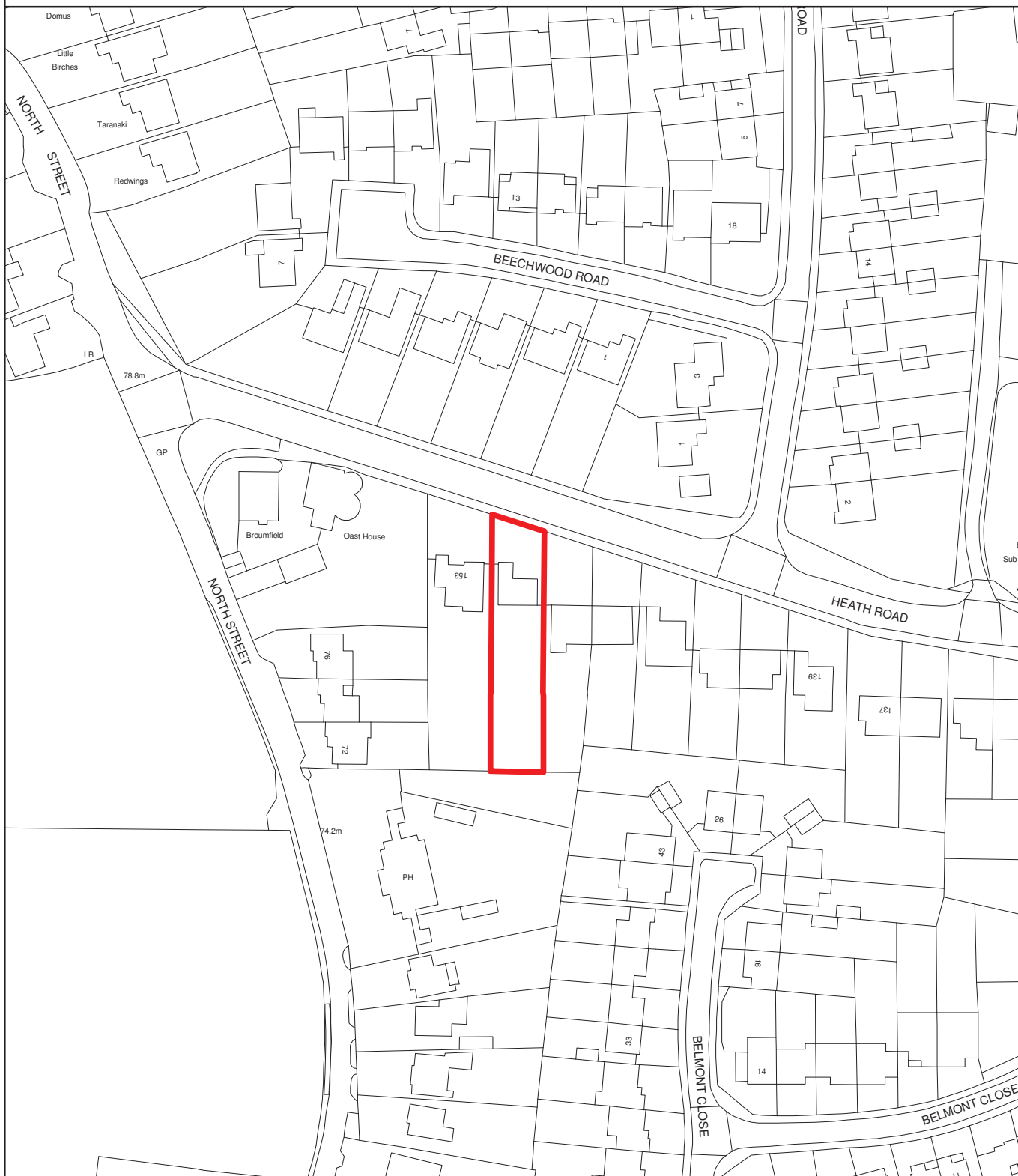


# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0757

GRID REF: TQ7255

151 HEATH ROAD,  
BARMING.



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**Rob Jarman**  
Head of Development Management

APPLICATION: MA/11/0757 Date: 9 May 2011 Received: 11 May 2011

APPLICANT: Mr & Mrs I Adams

LOCATION: 151, HEATH ROAD, BARMING, MAIDSTONE, KENT, ME16 9HJ

PARISH: Barming

PROPOSAL: Erection of a single storey rear extension as shown on plan numbers 1449/HRB/01, 1449/HRB/02, 1449/HRB/03, 1449/HRB/04, 1449/HRB/05, 1449/HRB/06, 1449/HRB/07, 1449/HRB/08, 1449/HRB/09, site location plan, supporting statement and application form received 11th May 2011.

AGENDA DATE: 21st July 2011

CASE OFFICER: Kevin Hope

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

- it is contrary to views expressed by Barming Parish Council

### 1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: H18
- South East Plan 2009: BE1, CC1, CC6
- Government Policy: PPS1, PPS3
- Other: MBC Residential Extensions Supplementary Planning Document 2009

### 2. **HISTORY**

No recent planning history at this address applicable to this application

### 3. **CONSULTATIONS**

- **Parish Council:** Barming Parish Council - Wish to see the application refused and wish to see it reported to the planning committee for the following reasons:-

"The proposed study is outside of the existing building line, which brings the proposed development into close proximity of the neighbouring property. The extension is too large with the study, which overdominates the existing property".

#### **4. REPRESENTATIONS**

- No neighbour representations have been received

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

5.1.1 The application site is sited within the parish of Barming and comprises a rectangular shaped residential plot occupied by a two storey detached dwelling. The property is set back from the road by approximately 8.5m and is set on a lower level by approximately 1m. There is also a small area of lawn with a large driveway providing parking provision for at least two vehicles. In addition to this, the property has an integral garage providing an additional car parking space. To the rear, the property has a large rear garden extending approximately 36.5m in length and measuring approximately 12m in width. This is largely laid to lawn with a raised timber decking area sited immediately to the rear of the dwelling. The rear garden is bordered by a range of boundary treatments including 2m high close boarded fencing to the eastern boundary and 1.5m high close boarded fencing to the southern boundary. The west facing boundary is bordered by 1.8m close boarded fencing which extends approximately 7.5m from the rear of the dwelling with the remainder of the boundary bordered by 0.9m high wire mesh fencing. There are also a number of trees within the rear garden located approximately 19m from the rear elevation of the dwelling.

5.1.2 The surrounding streetscene to the south side of Heath Road comprises a mix of detached and semi detached properties of a similar age and scale to the application dwelling. These properties comprise three main property types although the immediate neighbouring property, 153 Heath Road has previously been extended to the front. Although the pattern of development is consistent within this streetscene, the building line is irregular due to the direction of Heath Road. By virtue of this, the neighbouring property to the east, 149, is set back a further 9m and is inline with the rear elevation of the application dwelling.

##### **5.2 Proposal**

5.2.1 Planning permission is sought for the erection of a single storey rear extension. This would comprise two components, the first being the addition of a dining room and family room to the rear of the dwelling. This section of the extension would measure approximately 8.7m in width and would project approximately 5.1m from the existing rear elevation. The second being the addition of a study projecting a further 4.8m beyond the rear elevation of the proposed dining room. The proposed study would measure approximately 3.1m in width and would be accessed via the proposed dining room. The extension would have a

flat roof design and would incorporate two rooflights. The eaves height and overall height of the extension would measure approximately 2.5m and 3m respectively.

5.2.2 The proposed dining room and family room addition would be in line with the existing side elevations of the dwelling and would maintain a distance of approximately 1.5m to the eastern and western boundaries. The rearmost element of the proposed extension comprising the proposed study would be sited adjacent to the eastern boundary. This would create a small pathway providing side access to the extension.

### **5.3 Principle of Development**

5.3.1 In principle, household extensions are considered acceptable within the urban area of Maidstone subject to its scale, design and its impact upon the surrounding area. This is outlined within policy H18 of the Maidstone Borough Wide Local Plan 2000 and the Residential Extensions Supplementary Planning Document 2009 as shown below:-

*Policy H18:-"EXTENSIONS AND ADDITONS TO RESIDENTIAL PROPERITES WILL BE PERMITTED PROVIDED THAT THE PROPOSAL:*

- (1) IS OF A SCALE AND DESIGN WHICH DOES NOT OVERWHELM OR DESTROY THE CHARACTER OF THE ORIGINAL PROPERTY; AND*
- (1) WILL COMPLEMENT THE STREET SCENE AND ADJACENT EXISTING BUILDINGS AND THE CHARACTER OR THE AREA; AND*
- (2) WILL RESPECT THE AMENITIES OF ADJOINING RESIDENTS REGARDING PRIVACY, DAYLIGHT, SUNLIGHT AND MAINTAINANCE OF A PLEASANT OUTLOOK; AND*
- (3) ENSURES THAT ADEQUATE CAR PARKING PROVISION WITHIN THE CURTILAG OF THE DWELLING IS PROVIDED, IN ACCORDANCE WITH THE ADOPTED CAR PARKING STANDARDS.*

5.3.2 The Residential Extensions SPD also provides guidance on rear extensions within paragraphs 4.8 to 4.13. This document states that:-

- *"on detached houses situated close to a neighbouring property, extensions should generally extend no more than 4 metres from the rear elevation".*
- *"The eaves height of single storey extensions within 2 metres of a boundary should be no more than 3 metres above the existing ground level".*
- *"To protect against overlooking, the side wall facing a neighbour should not normally contain a window unless it maintained privacy by, for example, containing obscure glazing or being non-opening".*

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



## **5.4 Visual Impact and Design**

- 5.4.1 With regard to the impact of the development upon the existing dwelling, the proposed rear extension would project approximately 9.9m from the existing rear elevation overall, I note that the MBC Residential Extensions SPD states that rear extension should not project more than 4m from the existing rear elevation for a property of this type. However, I consider in this case that by virtue of the single storey scale of the proposal and the existing footprint of the dwelling the proposed extension would not overwhelm the existing dwelling or result in any significant harm to its character or appearance. Although, the parish council have raised concerns with regard to the dominance of the proposed study element of the extension, I consider that due to its modest width of 3.1m, this would not appear significantly dominant or overwhelming upon the existing dwelling.
- 5.4.2 It is also stated within the application details that in keeping external materials would be used in the construction of the development. However, to secure this, a matching materials condition shall be imposed which would further reduce the visual impact of the proposed development. Overall, although I recognise that the proposed extension would represent a substantial increase in the floorspace of the host property, I consider that its scale and design would not cause any significant harm to the appearance or character of the existing dwelling. I therefore consider that this proposal is in accordance with criterion (1) of policy H18 of the Maidstone Borough Wide Local Plan 2000 and the guidance within the Residential Extensions SPD 2009.
- 5.4.3 With regard to its impact upon the streetscene, the proposed extension may be partially visible from the streetscene by virtue of a distance of approximately 3m between the application dwelling and the neighbouring property to the east, 149. However, due to the single storey scale of the proposed extension, it's siting to the rear of the dwelling and its distance from the road of approximately 16m, I consider that there would be no significant impact upon the character or appearance of the Heath Road to the front.
- 5.4.4 In terms of the impact upon the pattern of development, whilst I acknowledge that the rearmost element of the extension only would not maintain a gap to the eastern boundary, I consider that by virtue of the maintained gap of 1.5m to the foremost section of the extension together with the siting of the neighbouring dwelling, 149, approximately 1.5m from the eastern boundary of the site, the extension would not result in any significant harm to the spacing between dwellings in this street. In addition, although the extension would have a significant overall projection of approximately 9.9m, this would be in line with the rearmost element of the neighbouring property, 149 due to its set back location and in my opinion, would not form a significantly visually dominant feature within this area at odds with the existing pattern of development. Due to

the single storey scale of the proposed extension, I consider that this development would not result in a terraced appearance within this street.

5.4.5 Overall, I consider that this proposal is in accordance with criterion (2) of policy H18 of the Maidstone Borough Wide Local Plan 2000 and the guidance contained within the Residential Extensions SPD 2009.

## **5.5 Neighbouring Amenity**

5.5.1 In terms of the impact of the development upon neighbouring amenity, due to the spacing between the extension and the neighbouring properties, 149 and 153 of approximately 1.5m and 3m respectively, together with the single storey scale of the proposed extension, I consider that a light test is not necessary and the proposed extension would not result in a significant loss of light to either neighbouring property. Similarly, by virtue of this scale and siting the proposed extension would not result in any detrimental overshadowing or impact upon the outlook of either neighbouring property.

5.5.2 With regard to privacy, I note that the extension would include two windows within the east facing elevation. However, these windows would be significantly screened by the existing 2m high boundary fencing and would not result in any significant loss of privacy to the occupiers of 149. In addition, the proposed windows would be non-opening which would further support this view. With regard to the privacy of 153, it is noted that an external door is proposed within the west facing elevation of the extension. However, this would be largely screened by the existing 1.8m high close boarded boundary fencing and I consider that this would not result in a significant loss of privacy to the occupiers of 153. The proposed projecting study section of the extension would also include two windows within the west facing elevation. However, this would not result in a loss of privacy to the occupiers of 153 due to the distance of approximately 10m between the west elevation and 153 together with the existing boundary fencing. As such, I consider overall that this proposal would not result in a significant detrimental impact upon the amenity of 149 and 153.

5.5.3 Due to its siting, the proposed extension would not have an impact upon the amenity of any other neighbouring property including a loss of light, outlook, privacy or overshadowing. Therefore this proposal is in accordance with criterion (3) of policy H18 of the Maidstone Borough Wide Local Plan 2000 and the guidance contained within the Residential Extensions SPD 2009.

## **5.6 Highways**

5.6.1 In terms of the impact upon parking, the location of the proposed rear elevation is such that it would not encroach on to the existing parking area. As such, parking provision for at least three vehicles would be retained within the front

driveway and integral garage of the application dwelling. Therefore this proposal is in accordance with criterion (4) of policy H18 of the Maidstone Borough Wide Local Plan 2000.

## **5.7 Landscaping**

5.7.1 This application does not include the provision of a landscaping scheme as part of this proposal. However, due to the existing soft landscaping within the rear garden of the site, I do not consider this to be a significant issue in this case.

5.7.2 As previously discussed within paragraph 5.1.1, there are a number of established trees and shrubs located across the garden towards the rear of the site. These trees and shrubs are located in excess of 9m from the rearmost part of the proposed extension and I am confident that there will be no significant detrimental harm to the trees as a result of this development.

## **6. CONCLUSION**

6.1 In conclusion, I consider that the proposal is therefore acceptable with regard to the relevant provisions of the development plan and other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis.

## **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 materials to be used in the construction of the external surfaces of the rear extension hereby permitted shall match those used in the existing building;

Reason: To ensure a satisfactory appearance to the development in accordance with policy H18 of the Maidstone Borough Wide Local Plan 2000 and policies BE1, CC1 and CC6 of the South East Plan 2009.

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

Plan numbers 1449/HRB/01, 1449/HRB/02, 1449/HRB/03, 1449/HRB/04,

1449/HRB/05, 1449/HRB/06, 1449/HRB/07, 1449/HRB/08, 1449/HRB/09, site location plan, supporting statement and application form received 11th May 2011.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with policy H18 of the Maidstone Borough Wide Local Plan 2000 and policies BE1, CC1 and CC6 of the South East Plan 2009.

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

**Representation**

A representation has been received from Barming Parish Council with regard to this application. This letter states that following review of the committee report prepared, the parish council would like to withdraw their previous objections to this application to allow the application to be withdrawn from the planning committee meeting.

**Officer Comment**

I acknowledge these comments from the parish council, however, as the application has been formally published within the meeting agenda, this application will still be reported to the planning committee on 21<sup>st</sup> July 2011.

**RECOMMENDATION**

**My recommendation remains unchanged:**

**GRANT PLANNING PERMISSION subject to conditions**



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# Agenda Item 18

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0908

GRID REF: TQ7555

HAZLITT ARTS CENTRE,  
ROSE YARD, MAIDSTONE.



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**Rob Jarman**  
Head of Development Management

APPLICATION: MA/11/0908 Date: 1 July 2011 Received: 1 July 2011

APPLICANT: Mrs C Parks, Maidstone Borough Council

LOCATION: HAZLITT ARTS CENTRE , ROSE YARD, MAIDSTONE, KENT, ME14 1PL

PARISH: Maidstone

PROPOSAL: Introduction of a plant room and associated equipment and staircases to the roof as shown on the site location plan and drawing numbers 1111/BW/01, 1111/BW/02 and 1111/BW/06 and design and access statement, all received 3rd June 2011.

AGENDA DATE: 21st July 2011

CASE OFFICER: Catherine Slade

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

- the Council is the applicant

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: R8
- South East Plan 2009: CC1, CC6, BE6
- Village Design Statement: Not applicable
- Government Policy: PPS1 Delivering Sustainable Development, PPS5 Planning and the Historic Environment
- Other: Maidstone Centre Conservation Area Appraisal

## **2. HISTORY**

- MA/11/0912 - An application for listed building consent for the introduction of a plant room and associated equipment and staircases to the roof and installation of radiators in Exchange and Rehearsal Rooms (formerly the Corn Exchange) – CURRENTLY UNDER CONSIDERATION
- 2.1 The proposal site has an extensive development management history, in respect of applications for planning permission, listed building consent and advertisement consent, most of which are not directly applicable to the current proposal. The proposal is the subject of a concurrent application for listed building consent, the details of which are set out above.

### **3. CONSULTATIONS**

- 3.1 English Heritage: Comments are awaited and will be reported to Planning Committee as an urgent update.
- 3.2 Maidstone Borough Council Conservation Officer: raises no objection subject to the imposition of conditions requiring the submission and written approval of details of the cladding to the plant room and makes the following detailed comments:

“These works will be at high level within a complex arrangement of roofs and will not be visible from ground level. There will be no significant impact on the character or appearance of the listed building or of the Conservation Area.”

- 3.3 Maidstone Borough Council Environmental Health Officer: raises no objection to the proposal subject to an informative relating to the potential of additional plant to cause a nuisance.

### **4. REPRESENTATIONS**

- 4.1 No representations have been received to date.

### **5. CONSIDERATIONS**

#### **5.1 Site Description**

- 5.1.1 The application site is located within the town centre of Maidstone to the south east of Earl Street, the north east of Market Buildings and the south west of Rose Yard. The site comprises a group of Grade II listed two storey mid nineteenth century buildings of classical form, including a Corn Exchange, with later twentieth century additions and alterations to the rear (Rose Yard).
- 5.1.2 The buildings house the Hazlitt Arts Centre, including an auditorium, gallery and rehearsal and performance spaces, as well as ancillary uses including bars, offices, storage and dressing rooms. The ground floor fronting onto Market Buildings is occupied by retail and commercial units.
- 5.1.3 The site is located within the Maidstone Centre Conservation Area, and within the secondary retail area of Maidstone.
- 5.1.4 The surrounding properties are in missed commercial uses, and there is no residential development immediately adjacent to the site of the proposed development, although the Council knows of two residential flats in the proximity of the site above Ashes Bar and ME1 on Market Buildings, which are located at a

distance of approximately 35m (measured horizontally) from the position of the proposed plant room.

## **5.2 Proposal**

- 5.2.1 The application seeks planning permission for the introduction of a plant room and associated equipment and external staircases to the roof; and an external door to the scenery store to allow access to the roof.
- 5.2.2 The proposed plant room would have a footprint of 26.25m<sup>2</sup>, and would be elevated in relation to the roof. The structure would have a mono pitched roof with a maximum height above roof level of 5m. The plant room would be sited centrally to the roof, and would be screened from view by higher structures to the north west, south west and north east, and immediately adjacent to a cone shaped light well to the interior colonnade to the Market Buildings, located immediately below.
- 5.2.3 The application also includes the introduction of external stairways to allow access to the proposed plant room for maintenance, as well as the introduction of an external door to the gable of the scenery store and associated internal and external stairways to enable safe access to the roof itself. Currently, access to the roof is gained either via an emergency ladder to the exterior of the building fronting Rose Yard, or through a hatch in gentlemen's W.C.
- 5.2.4 The purpose of the proposed works are to replace the existing boilers and hot water and heating arrangements within the Hazlitt Arts Centre and the Market Buildings, and to improve access to the external roof space.
- 5.2.5 The development to which this application relates, together with proposed works to the interior of the buildings comprising the replacement of existing radiators which would mainly replace existing fixtures, and the introduction of casings to the heaters and an internal staircase to the scenery store, is the subject of a separate application for listed building consent (MA/11/0912).

## **5.3 Principle of Development**

- 5.3.1 The proposed development would serve existing buildings with an established use, and would not be contrary to policy R8 of the Maidstone Borough-Wide Local Plan 2000 which seeks to safeguard the vitality and viability of the secondary retail area of Maidstone. The principle of the development is therefore considered acceptable.
- 5.3.2 In the circumstances of this case, I consider the key considerations in the assessment of this application to be the impact of the proposed development on the character and appearance of the streetscene and the Maidstone Town

Conservation Area, and the setting of the neighbouring listed buildings, which include the Unitarian Church and numbers 8-9 and the former Mitre Public House (now ME1) on Market Buildings.

#### **5.4 Visual Impact**

5.4.1 As set out in the comments of the Maidstone Borough Council Conservation Officer above, the operational development to which the application relates is restricted to the roof of the proposal site, and whilst subject to limited views from ground floor level (being visible from the light well to Market Buildings) the development would not be visible in the context of the streetscene or from public views from the highway, and as such I concur with the view of the Maidstone Borough Council Conservation Officer that there would "be no significant impact on the character or appearance of the listed building or of the Conservation Area". In any case, it is considered that the scale and design of the external elements of the proposal are acceptable, and in fact represent an improvement when assessed in the context of the appearance of the existing rooftop plant.

#### **5.5 Residential Amenity**

5.5.1 The plant room would be sited to the roof of the existing building, and be largely screened by roof top structures already in place. The enclosure of the necessary plant in the proposed plant room would mitigate against noise and vibration, and in any case, at this stage the equipment proposed is limited to boilers and a control panel, which would have limited significance as sources of disturbance. Furthermore, as set out in paragraph 5.1.4 above, the nearest residential properties are located at a distance of approximately 35m from the proposal site in what is a busy town centre location, in the context of which the limited additional noise is likely to be insignificant.

5.5.2 The Maidstone Borough Council Environmental Health Officer has raised no objection to the current proposal subject to an informative drawing the attention of the applicant to the need for regard to be had to the impact of plant on residential amenity in the case that additional plant is introduced in future years.

5.5.3 For these reasons it is not considered that the proposal would result in harm to residential amenity.

#### **5.6 Other Matters**

5.6.1 The development to which the application relates requires the Hazlitt Arts Centre to be closed, due to the incompatibility of undertaking the necessary operations, and the use of the buildings by patrons and members of the public. The Centre is therefore scheduled to be shut during August and September 2011.



5.6.2 As a result of the pressing timescale for determination of the application which result from the planned closure period; the expiry date of the statutory publicity procedures for such applications, which expires after the date of the Planning Committee; and the need to refer the application to the Secretary of State the Planning Committee is respectfully requested in the circumstances of this case to allow the Planning Officer delegated powers to refer the application to the secretary of state, recommending that planning permission be granted subject to conditions, subject to no further representations raising new planning considerations being received.

## **6. CONCLUSION**

6.1 For the reasons set out above, it is considered that the proposal would preserve the historical integrity and character of the Grade II Listed Building and would enhance its character and appearance, whilst having a limited impact upon that of the Conservation Area at ground level and the streetscene overall. The proposal would not cause harm to the vitality or viability of the secondary retail area of Maidstone, nor result in harm to residential amenity or highway safety.

6.2 It is therefore concluded that the application should be referred to the Secretary of State, with a recommendation that Planning Permission be granted.

## **7. RECOMMENDATION**

THAT, SUBJECT TO NO FURTHER REPRESENTATIONS RAISING NEW PLANNING CONSIDERATIONS BEING RECEIVED, I BE DELEGATED POWERS TO REFER THE APPLICATION TO THE SECRETARY OF STATE, RECOMMENDING THAT PLANNING PERMISSION BE GRANTED, subject to the following conditions:

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

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

2. The development shall not commence until full details of the cladding to the plant room have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details;

Reason: To ensure a satisfactory appearance to the development and that the historic appearance, character and significance of the building are maintained in accordance with policies CC1, CC6 and BE6 of the South East Plan 2009 and central

government planning policy and guidance in PPS1 Delivering Sustainable Development and PPS5 Planning for the Historic Environment.

**Informatives set out below**

Please note that the introduction of additional plant to the plant room may require listed building consent. Any additional plant should not cause a nuisance to neighbouring properties. For advice in this regard please contact Environmental Enforcement prior to the submission of installation.

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 the 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/11/0912

GRID REF: TQ7555

**HAZLITT ARTS CENTRE,  
ROSE YARD, MAIDSTONE.**



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**Rob Jarman**  
**Head of Development Management**

APPLICATION: MA/11/0912 Date: 1 July 2011 Received: 1 July 2011

APPLICANT: Mrs C Parks, Maidstone Borough Council

LOCATION: HAZLITT ARTS CENTRE , ROSE YARD, MAIDSTONE, KENT, ME14 1PL

PARISH: Maidstone

PROPOSAL: An application for listed building consent for the introduction of a plant room and associated equipment and staircases to the roof and installation of radiators in Exchange and Rehearsal Rooms (formerly the Corn Exchange) as shown on the site location plan and drawing numbers 1111/BW/01, 1111/BW/02, 1111/BW/03, 1111/BW/04 and 1111/BW/06 and design and access statement, all received 3rd June 2011, and drawing number 1111/BW/05 received 9th June 2011.

AGENDA DATE: 21st July 2011

CASE OFFICER: Catherine Slade

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

- the Council is the applicant

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: Not applicable.
- South East Plan 2009: BE6
- Village Design Statement: Not applicable.
- Government Policy: PPS5 Planning for the Historic Environment
- Other: Maidstone Centre Conservation Area Appraisal

## **2. HISTORY**

- MA/11/0912 Introduction of a plant room and associated equipment and staircases to the roof – CURRENTLY UNDER CONSIDERATION

2.1 The proposal site has an extensive development management history, in respect of applications for planning permission, listed building consent and advertisement consent, most of which are not directly applicable to the current proposal. The proposal is the subject of a concurrent application for planning permission, the details of which are set out above.

### **3. CONSULTATIONS**

- 3.1 English Heritage: Comments are awaited and will be reported to Planning Committee as an urgent update.
- 3.2 Maidstone Borough Council Conservation Officer: raises no objection subject to the imposition of conditions requiring the submission and written approval of details of the cladding to the plant room and large scale details of the casings for convectors and pipework, and makes the following detailed comments:

“The external works will be at high level within a complex arrangement of roofs and will not be visible from ground level. There will be no significant impact on the character or appearance of the listed building or of the Conservation Area. The installation of radiators/ convection heaters within the building reflects the arrangements which previously existed prior to the 1980s and would be easily reversible without damage to the historic fabric.”

### **4. REPRESENTATIONS**

- 4.1 No representations have been received to date.

### **5. CONSIDERATIONS**

#### **5.1 Site Description**

- 5.1.1 The application site is located within the town centre of Maidstone to the south east of Earl Street, the north east of Market Buildings and the south west of Rose Yard. The site comprises a group of Grade II listed two storey mid nineteenth century buildings of classical form, including a Corn Exchange, with later twentieth century additions and alterations to the rear (Rose Yard).
- 5.1.2 The buildings house the Hazlitt Arts Centre, including an auditorium, gallery and rehearsal and performance spaces, as well as ancillary uses including bars, offices, storage and dressing rooms. The ground floor fronting onto Market Buildings is occupied by retail and commercial units.
- 5.1.3 The site is located within the Maidstone Centre Conservation Area.

#### **5.2 Proposal**

- 5.2.1 The application seeks listed building consent for the introduction of a plant room and associated equipment and external staircases to the roof; introduction of an external door and internal staircase to the scenery store to allow access to the roof; the introduction of radiators and associated pipe work and casing to the main auditorium, Exchange Studio, Fourth Wall, Maidstone Room and Youth

Theatre Office; and the introduction of a hatch and retractable ladder to the balcony of the auditorium for access purposes.

- 5.2.2 The works to the exterior of the building would be limited to the roof, and would comprise the introduction of a plant room, and associated internal equipment, which would have a footprint of 26.25m<sup>2</sup>. The proposed structure would be elevated in relation to the roof, and would have a mono pitched roof with a maximum height above roof level of 5m. The plant room would be sited centrally to the roof, and would be screened from view by higher structures to the north west, south west and north east, and immediately adjacent to a cone shaped light well to the interior colonnade to the Market Buildings, located immediately below.
- 5.2.3 The application also includes the introduction of external stairways to allow access to the proposed plant room for maintenance, as well as the introduction of an external door to the gable of the scenery store and associated internal and external stairways to enable safe access to the roof itself. Currently, access to the roof is gained either via an emergency ladder to the exterior of the building fronting Rose Yard, or through a hatch in gentlemen's W.C.
- 5.2.4 The application includes the replacement of existing radiators which would mainly replace existing fixtures, and the introduction of casings to the heaters. In the case of the auditorium, Exchange Studio and Fourth Wall, these would be located in existing alcoves located between pillars (auditorium) and window bays (Exchange Studio and Fourth Wall). Also included in the application is the introduction of a hatch and retractable ladder to the balcony of the auditorium to allow access to the roof space above the auditorium.
- 5.2.5 The purpose of the proposed works are to replace the existing boilers and hot water and heating arrangements within the Hazlitt Arts Centre and the Market Buildings, and to improve access to the roof space, both internally and externally.
- 5.2.6 The works to the exterior of the building, comprising the introduction of a plant room and associated equipment and external staircases to the roof; and an external door to the scenery store to allow access to the roof are the subject of a separate application for planning permission (MA/11/0908).

### **5.3 Assessment**

- 5.3.1 The application is for listed building consent, and as such the only matter for consideration under the scope of the current application is the impact of the proposal on the character and appearance of the Grade II listed building.



- 5.3.2 The comments of the Maidstone Borough Council Conservation Officer are replicated above.
- 5.3.3 The works to the roof would include the replacement of existing plant installed on the roof of unattractive appearance with a purpose built housing around plant necessary for the functioning of the building. The external staircases are proposed to be of a functional appearance, which is considered to be acceptable in the context of their purpose and the limited views that would be afforded of them.
- 5.3.4 The proposed structures would be subject to views from ground floor level, albeit limited to the plant room and a small section of an external staircase, being visible from the light well to Market Buildings, however it is considered that the scale and design of the external elements of the proposal are acceptable, and would make a positive contribution to the overall appearance of the listed building.
- 5.3.5 The proposed works to the interior of the building are not considered to be significant, and to effectively restore the character and appearance of the arrangement that existing prior to the installation of the current heating in the 1980s. The casings have been thoughtfully designed, and to be visually in keeping with the existing appearance of the interior. The works proposed to the heating system would be "easily reversible without damage to the historic fabric" in the words of the Maidstone Borough Council Conservation Officer. Although the proposed introduction of the hatch and ladders are not specifically addressed in the comments of the officer, these are considered to be minor and not to have any significant detrimental impact upon the fabric of the listed building. For these reasons the works to the interior of the building are considered to be acceptable.
- 5.3.6 Notwithstanding the above, it is considered necessary in the circumstances of this case to attach conditions to the consent requiring the submission and written approval of details of the cladding to the plant room and large scale details of the casings for convectors and pipe work, as requested by the Maidstone Borough Council Conservation Officer, in order to safeguard the quality of the development and the character and appearance of the listed building.

## **5.4 Other Matters**

- 5.4.1 The works to which the application relate require the Hazlitt Arts Centre to be closed, due to the incompatibility of undertaking the necessary operations, and the use of the buildings by patrons and members of the public. The Centre is therefore scheduled to be shut during August and September 2011.

5.4.2 As a result of the pressing timescale for determination of the application which result from the planned closure period; the expiry date of the statutory publicity procedures for such applications, which expires after the date of the Planning Committee; and the need to refer the application to the Secretary of State the Planning Committee is respectfully requested in the circumstances of this case to allow the Planning Officer delegated powers to refer the application to the Secretary of State, recommending that listed building consent be granted subject to conditions, subject to no further representations raising new planning considerations being received.

## **6. CONCLUSION**

6.1 For the reasons set out above, it is considered that the proposal would preserve the historical integrity and character of the Grade II Listed Building and would enhance its character and appearance, whilst having a limited impact upon that of the Conservation Area at ground level.

6.2 It is therefore concluded that the application should be referred to the Secretary of State, with a recommendation that Listed Building Consent be granted.

## **7. RECOMMENDATION**

THAT, SUBJECT TO NO FURTHER REPRESENTATIONS RAISING NEW PLANNING CONSIDERATIONS BEING RECEIVED, I BE DELEGATED POWERS TO REFER THE APPLICATION TO THE SECRETARY OF STATE, 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 development shall not commence until full details of the following matters have been submitted to and approved in writing by the Local Planning Authority:-

a) Cladding to the plant room,

b) New internal joinery (casings for convectors and pipework including any metal venting grills) in the form of large scale drawings.

The development shall be carried out in accordance with the approved details;

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

historic appearance, character and significance of the building are maintained in accordance with policy BE6 of the South East Plan 2009 and central government planning policy and guidance in PPS5 Planning for the Historic Environment.

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





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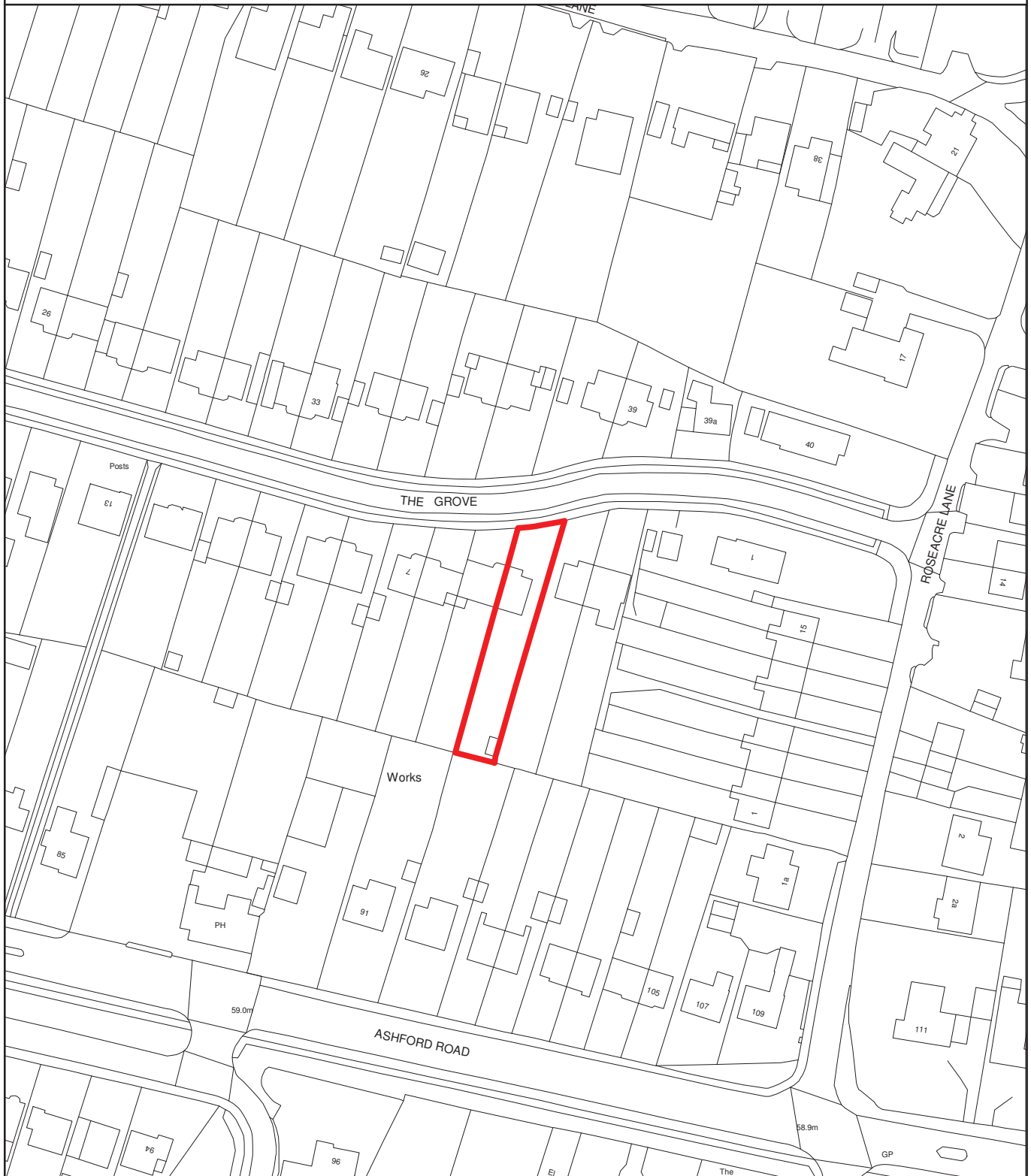
# Agenda Item 20

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0994

GRID REF: TQ7955

4 THE GROVE,  
BEARSTED.



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**Rob Jarman**  
**Head of Development Management**

APPLICATION: MA/11/0994 Date: 15th June 2011 Received: 15th June 2011  
APPLICANT: Mr & Mrs B. Gymer  
LOCATION: 4, THE GROVE, BEARSTED, MAIDSTONE, KENT, ME14 4JB  
PROPOSAL: Erection of a single storey front extension and two storey side and rear extension as shown on site location plan and drawing nos. 31.121.1 & 2 received 15/06/11.  
AGENDA DATE: 21<sup>st</sup> July 2011  
CASE OFFICER: Kathryn Altieri

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

- The applicant is an employee of Maidstone Borough Council

**1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: H18
- South East Plan 2009: CC6, BE1
- Government Policy: PPS1 - Delivering Sustainable Development
- Supplementary Planning Document – Residential Extensions (adopted May 09)

**2. HISTORY**

- MA/89/0196 - single storey rear extension - refused for having a detrimental impact upon the adjoining neighbour (5 The Grove) by way of its height, mass, bulk and length adjacent to the side boundary

**3. CONSULTATIONS**

- Bearsted Parish Council has given no response

**4. REPRESENTATIONS**

- No responses have been received to date.

## **5. CONSIDERATIONS**

### **5.1 Site description**

- 5.1.1 The application site relates to a rectangular shaped residential plot that is occupied by a semi-detached two storey dwelling with front drive and an attached side garage that has been converted into additional living accommodation. Set back more than 9m from The Grove, a quiet cul-de-sac within the urban area, the property is some 75m to the west of the junction with Roseacre Lane. The streetscene is varied and largely consists of residential properties of differing scale, design and age, although it should be noted that the application site is in the middle of a row of three pairs of semi-detached properties that are of the same design.
- 5.1.2 The application site does not fall within any other specially designated economic or environmental area, as shown by the Maidstone Borough-Wide Local Plan 2000.

### **5.2 The Proposal**

- 5.2.1 The proposal is for the erection of a single storey front extension and for a part single storey, part two storey side and rear extension. This would provide the occupants with self contained, but supported accommodation for their son. The annex would be attached and internally linked to the main house.
- 5.2.2 The proposed front element of the proposal would project northwards (towards the road) a further 3.85m, whilst maintaining the existing side extension's flat roof design and height (standing some 2.2m from ground level).
- 5.2.3 The proposed two storey element would project 1.7m from the existing property's side (eastern) flank, whilst remaining set back some 3.1m from its front building line (extending some 8m towards the rear of the site). This element of the proposal would maintain the existing eaves height of the main house (some 4.25m from ground level); and with its hipped roof design, it would have a ridge height of some 6.6m from ground level. Its ridge line would be set down some 2.1m from the property's main ridge line.
- 5.2.4 The proposed development would project some 6m from the original rear elevation of the property, with the furthest 3m from the property being single storey only. The single storey element, with its mono-pitched roof, would have ridge and eaves heights of some 3.5m and 2.3m respectively from ground level.
- 5.2.5 The two storey element of the proposal would be set in some 1.2m from the shared boundary with property to the east of the application site (3 The Grove).



5.2.6 Due to the topography of the site, all measurements given are approximate only.

### 5.3 **Planning Issues**

5.3.1 The specific policy under the Maidstone Borough-Wide Local Plan 2000 relating to housing extensions within the urban area is Policy H18, which states;

*"THE BOROUGH COUNCIL WILL PERMIT EXTENSIONS AND ADDITIONS TO RESIDENTIAL PROPERTIES PROVIDED THAT THE PROPOSAL:*

*(1) IS OF A SCALE AND DESIGN WHICH DOES NOT OVERWHELM OR DESTROY THE CHARACTER OF THE ORIGINAL PROPERTY; AND*

*(2) WILL COMPLEMENT THE STREET SCENE AND ADJACENT EXISTING BUILDINGS AND THE CHARACTER OF THE AREA; AND*

*(3) WILL RESPECT THE AMENITIES OF ADJOINING RESIDENTS REGARDING PRIVACY, DAYLIGHT, SUNLIGHT AND MAINTENANCE OF A PLEASANT OUTLOOK; AND*

*(4) ENSURES THAT ADEQUATE CAR PARKING PROVISION WITHIN THE CURTILAGE OF THE DWELLING IS PROVIDED, IN ACCORDANCE WITH THE ADOPTED CAR PARKING STANDARDS.*

*SUCH DEVELOPMENT WILL BE GUIDED BY SUPPLEMENTARY PLANNING GUIDANCE WHICH HAS BEEN APPROVED BY THE BOROUGH COUNCIL."*

I will consider the proposal against the criteria set out in this policy along with the guidance contained within the Council's Supplementary Planning Document – 'Residential Extensions'.

#### *Impact upon the property*

5.3.2 The proposal is of an acceptable scale and volume for a property of this size within the urban area where development of this type is to be expected. Moreover, the two storey element would continue the hipped roof design of the property, it would maintain the existing eaves height and the use of matching external materials would only further compliment the original property.

5.3.3 I therefore consider that this proposal has adhered to the advice set out in the Council's Supplementary Planning Document – 'Residential Extensions', in terms of its scale and form. As such, I consider that it would remain subordinate and ancillary to the existing house and would not significantly overwhelm or destroy its character.

#### *Impact upon the streetscene*

5.3.4 The proposal would be visible from The Grove. However, the two storey element would be set back some 3m from the front elevation of the property, its overall height would be set down some 2m from the ridge line of the main dwelling and

it would have a hipped roof design, only further lessening its visual appearance. As set out in the Council's SPD (para 4.18), this would respect the form, proportions and symmetry of the original property.

- 5.3.5 Moreover, the proposed two storey element would be set in 1.3m from the site's eastern boundary and a gap of more than 3m (at first floor level) between 3 and 4 The Grove would be maintained. This distance and the proposal's scale and design will ensure that this development will not have an adverse impact upon the rhythm and pattern of the streetscene, in accordance with the Council's SPD (paragraph 4.15-4.18). In addition to this, the original property and the surrounding neighbours would largely screen the bulk of the proposal from view when approaching the site from the east or west, along The Grove.
- 5.3.6 Front extensions are usually resisted because of the possible adverse effect they could have upon the streetscene. However, the Council's Supplementary Planning Document – 'Residential Extensions' (paragraph 4.27) does give a number of circumstances where this type of development may be acceptable. So, because The Grove has no clear building line, the proposal would remain single storey, and its modest projection would not extend beyond the front elevation of 3 The Grove's own single storey side extension, I do not consider this element of the proposal to be contrary to the advice given in the Council's SPD. I appreciate the flat roof design to the front is not ideal, however, this would modestly extend the already existing flat roofed extension and this roof design is a common feature within the street.
- 5.3.7 Moreover, the streetscene is in no way uniform but is a mixture of residential properties of differing styles, scales and ages; and there is no clear or consistent building line along The Grove. I cannot therefore argue that this development would have a significant detrimental impact upon the character of the surrounding heavily built up urban area where development like this is to be expected.
- 5.3.8 With everything considered, and given the fact that the bulk of the development would be towards the rear of the property and not easily visible from The Grove or any other public vantage point, I consider that this proposal would not appear visually incongruous in context with the surrounding area; and nor would it significantly affect the character and appearance of the street.

#### Impact upon neighbours

### **3 The Grove (to the east of the application site)**

- 5.3.9 Whilst the two storey element of the proposal marginally failed the BRE light tests from the kitchen window of this neighbour, it would remain set in some 1.3m from the shared boundary and it would be more than 2m away from the

said window. This together with the proposal's set down ridge line, hipped roof design, modest 3m projection beyond the applicant's original rear elevation and both properties orientation, I do not consider that this proposal would result in a significant loss of light or outlook to this opening and nor would it have an overbearing impact upon this neighbour's immediate outdoor amenity space.

- 5.3.10 There is a first floor opening in the side (western) flank of this neighbour. However, it is an obscure glazed window believed to serve a bathroom, which is not considered to be a habitable room and the two storey element of the proposal would not directly face it. I therefore consider any impact upon this area to be negligible.
- 5.3.11 The proposed (low eaved) front extension would not project beyond the single storey side extension of this neighbour (which has no side openings to be affected by this development). I therefore consider this element of the proposal to have no significant impact upon the amenity of the occupants of 3 The Grove.
- 5.3.12 The existing 1.8m high close boarded fencing for boundary treatment would maintain acceptable levels of privacy at ground floor level for this neighbour.

### **5 The Grove (to the west of the application site)**

- 5.3.13 The proposal would be more than 4m away from the shared boundary of this adjoining neighbour, being partly screened by the applicant's own conservatory and no new openings would directly face over onto this property. Given the significant separation distance between the proposal and 5 The Grove, together with both properties orientation (south facing gardens), the modest rear projection of the two storey element and the fenestration detail, I do not consider that this development would have an overwhelming impact upon, or cause a significant loss of light or privacy to, the occupants of this property.
- 5.3.14 The existing 1.8m high close boarded fencing for boundary treatment would maintain acceptable levels of privacy at ground floor level for this neighbour.
- 5.3.15 The properties to the rear of the site (fronting Ashford Road) would be more than 50m from the proposal, a significant enough distance for there to be no concern with loss of privacy/overlooking.
- 5.3.16 Overall, it is therefore considered, because of the proposal's scale, design and location, there would be no significant detrimental impact upon the residential amenity of any neighbour, in terms of loss of privacy, outlook, daylight and sunlight.

### Impact upon the parking

5.3.17 The proposal would create additional bedroom accommodation. However, the site would continue to have sufficient off road parking provision for a property of this size by way of its front drive that can hold two cars. Furthermore, there are no adopted parking standards to adhere to and the site is in a sustainable location, within walking distance of local amenities and bus routes.

5.3.18 I therefore consider that this proposal would not have a significant impact upon the parking provision or generate any need.

## **6. CONCLUSION**

6.1 It is therefore considered overall that the proposal is acceptable with regard to the relevant provisions of the Development Plan and amenity impacts on the local environment and other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis.

## **7. RECOMMENDATION**

**I BE GIVEN DELEGATED POWERS TO GRANT PLANNING PERMISSION SUBJECT TO THE EXPIRY OF THE PUBLIC CONSULTATION PERIOD AND NO NEW ISSUES BEING RAISED 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 materials to be used in the construction of the external surfaces of the building(s) hereby permitted shall match those used in the existing building;

Reason: To ensure a satisfactory appearance to the development. This is in accordance with policy H18 of the Maidstone Borough-Wide Local Plan 2000 and polices CC6 and BE1 of the South East Plan 2009.

3. No additional first floor windows, doors, voids or other openings shall be inserted, placed or formed at any time in the eastern facing wall of the building hereby permitted;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers. This is in accordance with policy H18 of the Maidstone Borough-Wide Local Plan 2000 and polices CC6 and BE1 of the South East Plan 2009.

4. The development hereby permitted shall be carried out in accordance with the following approved plans: 31.121.2 received 15/06/11;

Reason: To ensure the quality of the development is maintained. This is in accordance with policy H18 of the Maidstone Borough-Wide Local Plan 2000 and policies CC6 and BE1 of the South East Plan 2009.

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

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# Agenda Item 21

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE 21<sup>st</sup> July 2011**

### **APPEAL DECISIONS**

**1 – MA/10/0612      **Erection of eight local needs affordable housing units, with associated access****

Dismissed

**LAND EAST OF, SOUTH STREET ROAD,  
STOCKBURY, KENT, ME9 7UH**

(Committee)

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**2 – MA/10/2095      **Application to discharge conditions relating to MA/09/2331****

Allowed with Conditions

**WALNUT COTTAGE, CHURCH WALK, HEADCORN,  
ASHFORD, KENT, TN27 9NR**

(Delegated)

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