

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 19 April 2012
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

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

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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 Items withdrawn from the Agenda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 - 26 April 2012

Continued Over/:

Issued on 11 April 2012

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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 (Part I) of the meeting held on 29 March 2012 1 - 13
11. Presentation of Petitions (if any)
12. Report of the Head of Planning - Deferred Items 14
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19. Report of the Head of Planning - Tree Preservation Order No.19 of 2011 - Trees Rear of 12, 14, 16 Ashdown Close, Maidstone 107 - 120
20. Chairman's Announcements
21. Update on Matters Referred to the Leader of the Council and Cabinet Members for Environment/Economic Development and Transport

PART II

To move that the public be excluded for the item set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.

Head of Schedule 12A and Brief Description		
22. Minutes (Part II) of the meeting held on 29 March 2012	3 – Financial/Business Affairs 5 – Legal Professional Privilege/Legal Proceedings	121

PLEASE NOTE

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

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

Agenda Item 10

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES (PART I) OF THE MEETING HELD ON 29 MARCH 2012

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

Also Present: Councillors Barned, Hogg and Ross

314. APOLOGIES FOR ABSENCE

There were no apologies for absence.

315. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

316. NOTIFICATION OF VISITING MEMBERS

Councillor Barned indicated his wish to speak on the report of the Head of Planning relating to application MA/11/2190.

Councillor Hogg indicated his wish to speak on the report of the Head of Planning relating to application MA/11/1315.

Councillor Ross indicated his wish to speak on the report of the Head of Planning relating to application MA/11/0513.

317. ITEMS WITHDRAWN FROM THE AGENDA

MA/11/1315 – RAISING OF GARDEN LAND TO CREATE TERRACED AREAS; RETROSPECTIVE CHANGE OF USE OF AN AREA OF LAND TO RESIDENTIAL GARDEN LAND AND THE ERECTION OF PLAY EQUIPMENT; THE CREATION OF WOODEN STEPS; AND THE ERECTION OF FENCING – EAST VIEW, BYDEWS GRANARY, FARLEIGH HILL, TOVIL, MAIDSTONE

The Committee considered the urgent update report of the Head of Planning recommending that this application be withdrawn from the agenda to allow further investigation of land ownership issues with the Land Registry.

RESOLVED: That agreement be given to the withdrawal of application MA/11/1315 from the agenda to allow further investigation of land ownership issues with the Land Registry.

318. URGENT ITEMS

Update Report

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

319. DISCLOSURES BY MEMBERS AND OFFICERS

Mr Rob Jarman, the Head of Planning, disclosed an interest in his report relating to application MA/11/2190. He stated that he knew one of the objectors, but this had not affected the Case Officer's conclusion/recommendation in any way. With the agreement of the Committee, Mr Jarman remained in the meeting when the application was discussed, but he did not speak.

Councillor Ash disclosed a personal interest in the report of the Head of Planning relating to application MA/12/0281. He stated that he was a Member of Bearsted Parish Council, but he had not participated in any discussions on the application and intended to speak and vote when it was considered.

Councillors Harwood and Hinder disclosed personal interests in the report of the Head of Planning relating to application MA/12/0271. 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 Paterson stated that since she had pre-determined application MA/12/0304, she would speak but not vote when it was discussed.

320. EXEMPT ITEMS

RESOLVED: That the item on Part II of the agenda be taken in private as proposed.

321. MINUTES OF THE MEETING HELD ON 8 MARCH 2012

RESOLVED: That the Minutes of the meeting held on 8 March 2012 be approved as a correct record and signed.

322. PRESENTATION OF PETITIONS

There were no petitions.

323. DEFERRED ITEMS

MA/10/0157 - CHANGE OF USE OF LAND TO MIXED USE FOR RESIDENTIAL WITH THE STATIONING OF 1 STATIC CARAVAN AND 1 TOURING CARAVAN, UTILITY BUILDING, LAYING OF HARD SURFACING, CESS POOL AND ERECTION OF CLOSE BOARDED FENCING AND CHANGE

OF USE OF LAND FOR THE KEEPING OF HORSES WITH FIELD SHELTER - LAND EAST OF MAPLEHURST LANE, FRITTENDEN ROAD, STAPLEHURST, TONBRIDGE

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

324. NATIONAL PLANNING POLICY FRAMEWORK

The Head of Planning advised the Committee that the National Planning Policy Framework had now come into force. However, none of the applications to be considered at the meeting turned on the guidance set out in the document.

325. MA/10/1477 - ERECTION OF A SINGLE STOREY REAR EXTENSION - 127 LONDON ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

Mr Lloyd, an objector, addressed the meeting.

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

The applicant is encouraged to discuss the proposal with the Council's Building Control Officers.

Voting: 13 – For 0 – Against 0 – Abstentions

326. MA/10/2197 - CHANGE OF USE OF LAND TO MIXED USE FOR KEEPING OF HORSES AND STATIONING OF 1 NO. MOBILE HOME AND 1 NO. TOURING CARAVAN INCLUDING UTILITY BUILDING AND ASSOCIATED WORKS FOR PERSON WITH GYPSY STATUS - THE HONEYSUCKLES, CROSS DRIVE, KINGSWOOD, MAIDSTONE

Councillor Paine stated that he had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

327. MA/11/0513 - CONVERSION OF THE BUILDING TO 6 SELF-CONTAINED FLATS - PINE LODGE, SOMERFIELD ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

Mr Best, for objectors, and Councillor Ross addressed the meeting.

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

Voting: 13 – For 0 – Against 0 – Abstentions

328. MA/11/1315 - RAISING OF GARDEN LAND TO CREATE TERRACED AREAS; RETROSPECTIVE CHANGE OF USE OF AN AREA OF LAND TO RESIDENTIAL GARDEN LAND AND THE ERECTION OF PLAY EQUIPMENT; THE CREATION OF WOODEN STEPS; AND THE ERECTION OF FENCING - EAST VIEW, BYDEWS GRANARY, FARLEIGH HILL, TOVIL, MAIDSTONE

See Minute 317 above.

329. MA/11/2190 - VARIATION OF CONDITION 2 OF PERMISSION MA/03/2343 (EXTENSION OF THE HOLIDAY PARK'S SEASON FROM 8 MONTHS TO 10 MONTHS) TO ALLOW THE USE OF TOURING CARAVANS, TENTS AND STATIC CARAVANS FOR HOLIDAY PURPOSES ALL YEAR ROUND (EXCLUDING THE 18 PERMITTED RESIDENTIAL STATIC CARAVANS) - PILGRIMS RETREAT, HOGBARN LANE, HARRIETSHAM, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

Mr Van Diepen, an objector, Councillor Taylor of Harrietsham Parish Council (against) and Councillor Barned addressed the meeting.

RESOLVED:

1. That subject to the expiry of the site notice and advertisement publicising the application as a Departure from the Development Plan and the receipt of no representations raising new issues, the Head of Planning be given delegated powers to grant variation of condition 2 of permission MA/03/2343 as follows:-

All accommodation units (excluding the 19 caravans previously permitted for permanent residential use) permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency, which would be contrary to national and local plan policy discouraging the proliferation of new dwellings in the countryside and in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

2. That the informative set out in the urgent update report be attached to the consent.

Voting: 10 – For 1 – Against 2 – Abstentions

330. MA/12/0271 - RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE OF RESIDENTIAL CARE HOME TO SINGLE DWELLING - RUBY, CHATHAM ROAD, SANDLING, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

RESOLVED: That subject to the expiry of the site notice and advertisement publicising the application as a Departure from the Development Plan and the receipt of no representations raising new issues, the Head of Planning be given delegated powers to grant permission.

Voting: 13 – For 0 – Against 0 – Abstentions

331. MA/12/0287 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 2 NON-ILLUMINATED POSTER CASES - LOCKMEADOW CAR PARK, BARKER ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

332. MA/12/0298 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - TOILET BUILDING, BRENCHLEY GARDENS, STATION ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 12 – For 1 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

333. MA/12/0299 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - TOILET BUILDING, CLARE PARK, TONBRIDGE ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 10 – For 2 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

334. MA/12/0300 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - TOILET BUILDING, FAIRMEADOW, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

335. MA/12/0301 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - TOILET BUILDING, MID-KENT SHOPPING CENTRE, CASTLE ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

336. MA/12/0302 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - LAKESIDE TOILET BUILDING, MOTE PARK, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 10 – For 2 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

337. MA/12/0303 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - PAVILION TOILET BUILDING, MOTE PARK, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 10 – For 2 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

338. MA/12/0305 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - PUBLIC CONVENIENCES, SOUTH PARK, ARMSTRONG ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 7 – For 5 – Against 0 – Abstentions

Note: Councillor English was not present during consideration of this application.

339. MA/12/0304 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - PUBLIC CONVENIENCES, PENENDEN HEATH, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

RESOLVED: That advertisement consent be granted subject to the conditions set out in the report with the amendment of the reason for approval as set out in the urgent update report.

Voting: 7 – For 4 – Against 0 – Abstentions

Note:

Councillor English was not present during consideration of this application.

Having stated that she had pre-determined the application, Councillor Paterson did not participate in the voting.

340. MA/12/0306 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED POSTER CASE - TOILET BUILDING, WHATMAN PARK, JAMES WHATMAN WAY, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

RESOLVED: That advertisement consent be granted subject to the conditions set out in the report with the amendment of the reason for approval as set out in the urgent update report.

Voting: 10 – For 1 – Against 1 – Abstention

Note: Councillor English was not present during consideration of this application.

341. MA/12/0281 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, YEOMAN LANE, BEARSTED

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

342. MA/12/0285 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, BRUNSWICK STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

343. MA/12/0282 - ADVERTISEMENT CONSENT FOR 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, BARKER ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

344. MA/12/0283 - ADVERTISEMENT CONSENT FOR 1 NON-ILLUMINATED FREE STANDING POSTER CASE - BREWER STREET EAST CAR PARK, BREWER STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

345. MA/12/0289 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - MEDWAY STREET CAR PARK, MEDWAY STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

346. MA/12/0288 - ADVERTISEMENT CONSENT FOR 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, LUCERNE STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

347. MA/12/0284 - ADVERTISEMENT CONSENT FOR 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, BROOKS PLACE, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

348. MA/12/0291 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, MOTE ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

RESOLVED: That advertisement consent be granted subject to the conditions set out in the report with the amendment of the reason for approval as set out in the urgent update report.

Voting: 13 – For 0 – Against 0 – Abstentions

349. MA/12/0292 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - MAIDSTONE BOROUGH COUNCIL CAR PARK, PALACE AVENUE, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 12 – For 1 – Against 0 – Abstentions

350. MA/12/0290 - ADVERTISEMENT CONSENT FOR 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, MILL STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 8 – For 5 – Against 0 – Abstentions

351. MA/12/0293 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - SITTINGBOURNE ROAD CAR PARK, VINTERS ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

RESOLVED: That advertisement consent be granted subject to the conditions set out in the report with the amendment of the reason for approval as set out in the urgent update report.

Voting: 12 – For 1 – Against 0 – Abstentions

352. MA/12/0294 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - UNION STREET WEST CAR PARK, UNION STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

353. MA/12/0295 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - UNION STREET EAST CAR PARK, UNION STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

354. MA/12/0296 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, WHEELER STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

355. MA/12/0297 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 1 NON-ILLUMINATED FREE STANDING POSTER CASE - CAR PARK, WELL ROAD, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 13 – For 0 – Against 0 – Abstentions

356. MA/12/0286 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF FOUR NON-ILLUMINATED BANNER SIGNS AND TWO NON-ILLUMINATED POSTER CASES - APCOA PARKING, KING STREET MULTI-STOREY, CHURCH STREET, MAIDSTONE

The Committee considered the report and the urgent update report of the Head of Planning.

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

Voting: 10 – For 3 – Against 0 – Abstentions

357. APPEAL DECISIONS

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

RESOLVED: That the report be noted.

358. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that:-

- He was impressed by the way in which the planning peer review had been conducted. The results were awaited.
- The National Planning Policy Framework had now come into force, and it was pleasing that the Council's response to the consultation had been taken into account.

359. UPDATE ON MATTERS REFERRED TO THE LEADER OF THE COUNCIL AND CABINET MEMBERS FOR ENVIRONMENT/ECONOMIC DEVELOPMENT AND TRANSPORT

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

360. EXCLUSION OF THE PUBLIC FROM THE MEETING

RESOLVED: That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reasons specified, having applied the Public Interest Test:-

Head of Schedule 12 A and Brief Description

Exempt Report of the Head of Planning – Variation of Tree Preservation Order No.8 of 2010 – Trees and Woodland at Great Oak Farm, Friday Street, East Sutton	3 - Financial/Business Affairs 5 - Legal Professional Privilege/Legal Proceedings
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361. EXEMPT REPORT OF THE HEAD OF PLANNING - VARIATION OF TREE PRESERVATION ORDER NO.8 OF 2010 - TREES AND WOODLAND AT GREAT OAK FARM, FRIDAY STREET, EAST SUTTON

RESOLVED: That Tree Preservation Order No.8 of 2010 be varied under Regulation 8 of the Town and Country Planning (Trees) Regulations 1999 to exclude woodland identified as W1 on the plan attached as an Appendix

to the exempt report of the Head of Planning and to continue to protect the individual Oak tree identified as T1 on the plan.

Voting: 9 – For 2 – Against 2 – Abstentions

362. DURATION OF MEETING

6.00 p.m. to 8.30 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

19 APRIL 2012

REPORT OF THE HEAD OF PLANNING

1. DEFERRED ITEMS

- 1.1. The following application stands deferred from a previous meeting of the Planning Committee. The Head of Planning will report orally at the meeting on the latest situation. The application may be reported back to the Committee for determination.

1.2.	<u>Description of Application</u>	<u>Date Deferred</u>
(1)	<u>MA/10/0157 - CHANGE OF USE OF LAND TO MIXED USE FOR RESIDENTIAL WITH THE STATIONING OF 1 STATIC CARAVAN AND 1 TOURING CARAVAN, UTILITY BUILDING, LAYING OF HARD SURFACING, CESS POOL AND ERECTION OF CLOSE BOARDED FENCING AND CHANGE OF USE OF LAND FOR THE KEEPING OF HORSES WITH FIELD SHELTER - LAND EAST OF MAPLEHURST LANE, FRITTENDEN ROAD, STAPLEHURST, TONBRIDGE</u>	8 MARCH 2012

Deferred for the Officers to liaise with the applicant to regularise the site in terms of receiving an application that causes the least damage to the countryside, and that Ward Councillors and one representative from Staplehurst Parish Council be involved in the discussion.

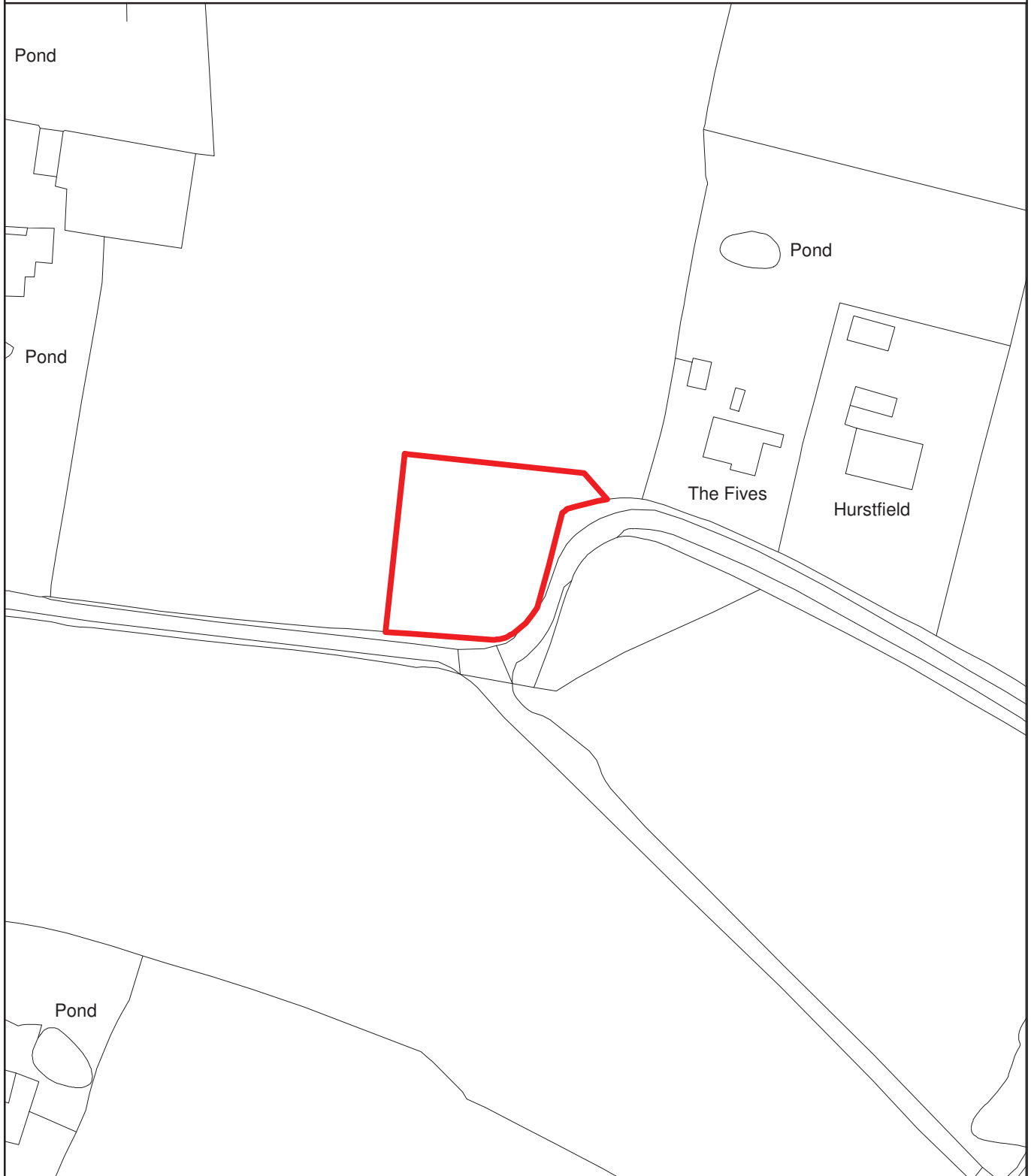
Agenda Item 13

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1780

GRID REF: TQ7847

LAND AT CHARTVIEW, CHART HILL ROAD,
CHART SUTTON.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/1780 Date: 12 October 2011 Received: 6 December 2011

APPLICANT: Mr Dale Courtnell

LOCATION: LAND AT CHARTVIEW, CHART HILL ROAD, CHART SUTTON, KENT,
ME17 3EX

PARISH: Chart Sutton

PROPOSAL: Change of use of land to use as a residential caravan site for one gypsy family, including stationing of two caravans, erection of a day room, hardstanding and new access as shown on unnumbered block plan, PBA1 and unnumbered post and rail fence drawing received on 18/10/11.

AGENDA DATE: 19th April 2012

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Chart Sutton Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- South East Plan 2009: CC1, CC6, C4, H4
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

2. HISTORY

There is no relevant history for the site, however, there are other gypsy sites in the vicinity.

3. CONSULTATIONS

Chart Sutton Parish Council "wishes to see the application REFUSED and request that the application is reported to the Planning Committee and state that:-

"The entrance is situated on a busy private road and there is no right of way on to the land from this road, and it is an agricultural field in a Greenfield site in open countryside.

We would also like to point out that the ditch has been damaged and the hedge has already been removed. It has also been brought to our attention that it is a site of landscape interest.

We also note that the erection of a brick and tile day room has been requested and this does seem contradictory to a travelling way of life and more suggestive of a settled lifestyle."

Following re-consultation on information regarding the applicant's gypsy status **Chart Sutton Parish Council** stated:-

"Chart Sutton Parish Council believes there is some doubt over the accuracy of some of the contents of the letter and wishes to re-iterate our previous recommendation for the application to be refused and reported to the Planning Committee."

Kent Highway Services raise no objections to the application on highway safety grounds and state:-

"I can confirm that the lane in question is not publicly maintainable; hence I am not able to comment on the suitability of the proposed access to the property. However, visibility at the junction between the private lane and Chart Hill Road is acceptable and the stretch of Chart Hill Road in question has a good safety record."

4. REPRESENTATIONS

Twelve letters of objection have been received on the following grounds:-

- Detrimental impact on the countryside especially when combined with other sites.
- The application is retrospective and should be refused to discourage such applications.
- The concentration of sites in the area is too high.
- Concern regarding the upkeep of the access.
- Concern about an increase in surface water flooding and issues with foul drainage.
- The applicant is not a gypsy.
- Inadequate access.
- Loss of privacy.
- Loss of hedgerow at the access.

Two letters of support have been received for the application.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The site is within the open countryside and the designated Low Weald Special Landscape Area. It is located on the corner of a private lane to the east of Chart Hill Road in Chart Sutton Parish. The site was formerly a grazed field and has a hedgerow running along two sides and is open to the remainder of the field on the other two sides. It is approximately 0.14 hectares in area with a larger area of land in the applicant's ownership to the north.
- 5.1.2 A public footpath, KH562, runs to the west of the site through an open field. The surrounding area is rural in character with two dwellings nearby to the east, further dwellings and farm buildings, some of which are listed, are located further to the east at the end of the private lane. To the west are further dwellings at Little Rabbits Cross with a gypsy site for two gypsy families (3 caravans) to the north west, which was granted permanent non-personal consent at appeal under reference MA/07/1403.
- 5.1.3 To the south of the site, approximately 95m from the junction with Chart Hill, is the Lord Raglan pub. Beyond this is Chart Hill Paddock, another gypsy site.

5.2 Proposal

- 5.2.1 The application is part retrospective and is for the creation of a residential caravan site for one gypsy family for Mr Dale Courtneil and his family comprising a mobile home and a touring caravan along with a brick amenity building, hardstanding and access onto the private lane.
- 5.2.2 The amenity building would be 6m by 4m and 2.6m to eaves and 3.9m to the ridge.

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"

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.

5.3.2 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.

5.3.3 A key consideration in the determination of this application is central Government guidance contained with *Planning Policy for traveller sites* published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

5.3.4 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 in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council has procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concludes the following need for pitches over the remaining Core Strategy period:-

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 – March 2026	157 pitches

These figures were agreed by Cabinet on the 14th March 2012 as the pitch target to be included in the next consultation version of the Core Strategy.

5.3.5 Draft Policy CS12 of the Regulation 25 version of the Core Strategy outlines that the Borough need for gypsy and traveller pitches will be addressed through the granting of planning permissions and through the Development Delivery DPD.

- 5.3.6 The Development Delivery DPD will allocate the specific sites for residential (including gypsy sites) and non-residential development, as well as dealing with landscape designations and village boundaries. The current timetable indicates that the Development Delivery DPD is scheduled for adoption in March 2015.
- 5.3.7 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 Annex 1 of Planning Policy for traveller sites (2012) 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 Objections have been raised on the basis that the applicant is not a gypsy. The Council is aware that Mr Courtnell and his family were residing in a house within the Borough prior to taking up occupation of the site. However, residing in a house does not preclude someone from complying with the gypsy definition and the Council's GTAA includes survey results from gypsies currently residing within housing.
- 5.4.3 The key consideration is whether the applicant complies with the definition of a gypsy and has a site based housing need. The agent for Mr Courtnell states that he is a Romany gypsy whose family originated in London, moved to Medway and has spread out throughout Kent. Since getting married 11 years ago the family has lived in the Maidstone/Staplehurst/Marden area on sites belonging to friends or, more recently, owning houses in Maidstone. It is stated that Mr Courtnell could not adapt to living in a house and frequently slept in a touring caravan in the garden. The agent continues to say that Mr Courtnell travels to horse fairs in the summer starting with Stow-on-the-Wold in May and travelling to fairs at Appleby, New Forest, Epsom and Cambridge and then returning to Stow in October. When he is away Mr Courtnell looks for work fruit picking or roofing. Since the children have started school the travelling has occurred for approximately 6-8 weeks per year and generally fitting the travelling around the school holidays.

5.4.4 Mrs Courtnell is related to the family on the nearby site that was the subject of MA/07/1403.

5.4.5 From the evidence provided I consider that Mr Courtnell and his family comply with definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites.

5.5 Need for Gypsy Sites

5.5.1 Planning Policy for traveller sites gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

5.5.2 A Gypsy and Traveller Accommodation Assessment (GTAA) was conducted previously to assess the level of need for gypsy accommodation over the five year period from April 2006 to April 2011 and resulted in the overall pitch requirement being identified of 44 pitches for the whole 5 year period.

5.5.3 Between 1 April 2006 and 31 September 2011 the following permissions for mobiles have been granted (net):

41 Permanent non-personal permissions
18 Permanent personal permissions
8 Temporary non-personal permissions
29 Temporary personal permissions

Therefore a net total of 59 permanent planning permissions for mobiles have been granted between 1 April 2006 and 31 September 2011.

5.5.4 The latest GTAA (2011-2026) provides the projection of accommodation requirements as follows –

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 – March 2026	157 pitches

The requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. Therefore although the pitch target is high for the first five years, the immediate need is not, in my view, overriding.

5.5.5 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

- 14 Permanent non-personal permissions
- 5 Permanent personal permissions
- 0 Temporary non-personal permissions
- 1 Temporary personal permissions

Therefore a net total of 19 permanent pitches have been granted since 1st October 2011.

- 5.5.6 In terms of unauthorised caravans, based on the bi-annual gypsy and traveller count figures from the July 2011 count and according to the Council's database at the time of writing this report, there were 22 unauthorised mobile homes and 18 unauthorised touring caravans on 22 unauthorised sites. The number of unauthorised mobiles and touring caravans was fully taken into account in pitch need figures in the latest GTAA.
- 5.5.7 It is considered that the Council met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues as revealed in the latest GTAA.

5.6 Visual Impact

- 5.6.1 The latest guidance in the Government's Planning Policy for Traveller Sites states that Local Planning Authorities should strictly limit new traveller development in open countryside (para 23) but goes on to state that where sites are in rural areas the considerations are issues of not dominating the nearest settled community and not placing undue pressure on local infrastructure.
- 5.6.2 The site is screened from medium distance views along Chart Hill Road by the hedgerow along the southern boundary. This screens views of the hardstanding and vehicles on the site. There would be glimpses of the top of the mobile home and the proposed amenity room although I do not consider that these views would be harmful to the character and appearance of the surrounding area or the wider landscape in the Special Landscape Area.
- 5.6.3 There would be some views of the site from the private lane, particularly through the access point. However, I do not consider that these short range views would be significantly harmful to the character and appearance of the surrounding area or the wider landscape in the Special Landscape Area.
- 5.6.4 To the west of the site there is a footpath, KH562. There are clear views of the site from this footpath and the introduction of development and the stationing of caravans would have a change to the character of the area. However, the gypsy

site to the north west is also clearly visible from the footpath. At the appeal into MA/07/1403 the Inspector considered that although the site could be seen from the road and the footpath gypsy sites should not be hidden. He later states:-

"There is clearly a balance to be drawn in terms of screening and planting; so that the occupiers are visually part of the community, whilst the site is screened to reduce its impact to an acceptable level; bearing in mind that the caravans are always likely to be visible, particularly when the leaves are off the deciduous trees, hedges and shrubs."

5.6.5 It is my view that although the site is visible from the footpath, the proposed post and rail fencing and the proposed hedgerow would suitably soften the impact on the character and appearance of the area to a level that is considered acceptable. Both of these elements can be secured by way of a condition and this would ensure the impact of the site remains at an acceptable level into the future.

5.7 Residential Amenity

5.7.1 There are other residential properties nearby the closest being 'The Fives', however, there would be a separation distance of in excess of 50m between the proposed mobile home and the dwelling at 'The Fives'. This distance would be sufficient to ensure that there would be no significant impact on residential amenity in terms of loss of privacy, loss of light or an overbearing impact.

5.7.2 Similarly, I do not consider that there would be any significant impact on the occupiers of other dwellings in the vicinity that are further away from the site than 'The Fives'.

5.8 Highways

5.8.1 The access to the site is onto a private lane and not a public highway and as such Kent Highway Services have not commented on the access itself. However, the lane is a private road that serves a small number of dwellings and farm buildings and the lane is not heavily trafficked. Furthermore, due to the nature of the lane the traffic using it would be slow moving and the visibility is adequate.

5.8.2 Kent Highway Services confirm that the junction of the lane with Chart Hill Road has adequate visibility and that the stretch of Chart Hill Road has a good crash record. Therefore Kent Highway Services raise no objections and I agree that the application would result in no significant highway safety concerns.

5.9 Other Matters

- 5.9.1 In terms of impact on ecology, the site was a grazed field and the short grass had limited ecological benefit. The loss of part of the hedge through the creation of the access has had some detrimental impact on ecology, however, I do not consider this loss to be so harmful to warrant refusal of the application. The proposed new hedgerow would provide additional habitat for wildlife and would link in with the existing established hedgerow on the boundary with the private lane to provide a corridor.
- 5.9.2 The issues raised by objectors regarding the unauthorised use of and ongoing maintenance of the private lane are private matters between the parties involved and not planning considerations.
- 5.9.3 The application is retrospective but this is not a reason to refuse consent. All applications have to be determined on their own merits, in accordance with the Development Plan and other material considerations whether retrospective or proposed.
- 5.9.4 There are other gypsy sites in the surrounding area and objectors have raised the issue of a concentration of sites. However, there is no policy that prevents a concentration of sites and guidance in the Planning Policy for traveller sites states that sites should not dominate the nearest settled community. I consider that this site, when combined with other gypsy sites in the vicinity, would not dominate the settled community.
- 5.9.5 The site is a relatively small site and the gravel surface across the majority of the site would be porous and would ensure that surface water run off would not significantly increase. The foul sewage would be dealt with by way of a package treatment plant, which provides a better quality discharge than a septic tank. This would require a licence from the Environment Agency, which is outside of the planning considerations.
- 5.9.6 Although the site is within the open countryside, I do not consider that it is so remote from services to warrant a refusal on sustainability grounds. Other gypsy sites have been found to be acceptable and are similar distances from facilities. In addition, the wider considerations of sustainability within the Planning Policy for traveller sites include the advantages of providing a settled base for the occupiers.

6. CONCLUSION

- 6.1 The site is located within the countryside and Special Landscape Area, however, gypsy sites can be acceptable in the countryside. It is considered that the

applicant is a gypsy and complies with the definition contained within the Planning Policy for Traveller Sites.

- 6.2 The visual impact of the site is worse from short range views at the access and from the nearby footpath. However, these views can be mitigated through the planting of some landscaping, which would be secured through a condition.
- 6.3 There is a need to provide gypsy accommodation within the Borough and the revised GTAA published in 2012 indicates that there is a pitch requirement of 105 pitches up until 2016. I consider that this is an acceptable site for a residential gypsy site and whilst granting permission would go toward meeting the identified need I do not give the need for gypsy accommodation much weight in the consideration of this case as the site is acceptable in planning terms.
- 6.4 There are no other significant planning issues that would warrant refusal of the application.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South-East Plan (2009).

2. This permission does not authorise the use of the land as a caravan site by any other persons other than gypsies, as defined in Annex 1 of Planning Policy for traveller sites;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted in accordance with policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

3. No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

4. No commercial activity or open storage shall take place on the site;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

5. Within 3 months of the date of this permission the fencing shown on the submitted block plan received on 18 October 2011 shall be fully implemented and maintained thereafter;

Reason: To ensure a satisfactory impact on the surrounding area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

6. Within 2 months of the date of this permission a scheme of landscaping, using indigenous species which shall include the retention of the existing boundary hedgerows together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted in accordance with policy ENV6 of the Maidstone Borough-Wide Local Plan (2000).

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the planting and seeding seasons October 2012-March 2013; 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).

8. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls other than those hereby permitted shall be erected;

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

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

Reason: To ensure a satisfactory appearance to the development in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

10. The development hereby permitted shall be carried out in accordance with the following approved plans:
unnumbered block plan, PBA1 and unnumbered post and rail fence drawing received on 18/10/11;

Reason: To ensure the a satisfactory impact on the surrounding area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

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

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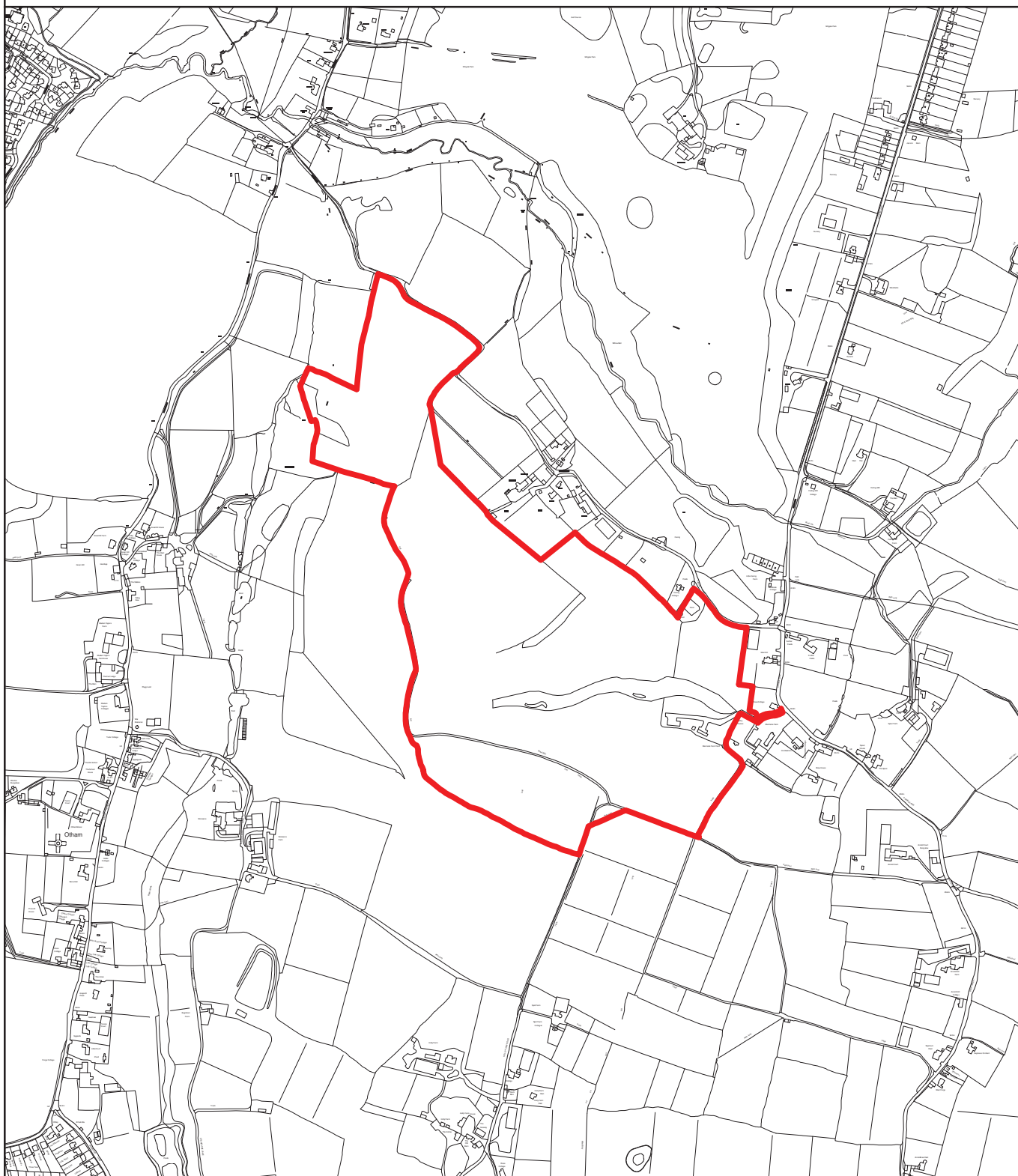


THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1784

GRID REF: TQ8053/8054

CARING WOOD, CARING LANE,
LEEDS.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/1784 Date: 18 October 2011 Received: 21 March 2012

APPLICANT: Mr & Mrs V & D Tracz

LOCATION: CARING WOOD, CARING LANE, LEEDS, MAIDSTONE, KENT, ME17 1TJ

PARISH: Leeds, Otham

PROPOSAL: Erection of 1(no.) dwelling with associated estate manager's cottage, new barn with ragstone wall accommodating photovoltaic cells, new access tracks, dry store, glasshouse, parking areas and landscaping in accordance with plans numbered 016-101 A; 016-114 A; 016-100 A; 016-113 A; 016-103 A; 016-102 A; 106-11 A; 016-107 A; 106-108 A; 016-109 A; 016-104 A; 016-106 A; 016-105 A; 016-111 A; 016-112 A; 016-115 A; 016-113 A received on the 21 March 2012, and 016-112; 016-111; 016-002; 09/00/176; 016-001; 016-115 together with the whole farm conservation plan; great crested newt survey; soil excavation details; Passivhaus verification; Code for Sustainable Homes checklist; economic sustainability report; design and access statement; ecological scoping opinion; sustainability and energy statement; landscape and visual impact assessment; planning statement and landscape and farming proposals received on the 18 October 2011.

AGENDA DATE: 19th April 2012

CASE OFFICER: Chris Hawkins

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

- It is a departure from the Development Plan.
- Whilst Otham Parish Council have objected to this proposal, only a small portion of the application site falls within their Parish, the majority of the site lies within Leeds Parish.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, T13
- South East Plan 2009: CC1, CC2, CC4, CC6, H1, T4, NRM1, NRM5, NRM7, NRM10, NRM11, NRM12, NRM15, NRM16, W2, W11, C4, BE6.
- Village Design Statement: N/A

- Government Policy: National Planning Policy Framework (NPPF) 2012

2. HISTORY

MA/09/0578 - Flow House, Caring Lane, Leeds, Maidstone (same site as those give below – renamed). Application for a lawful development certificate for an existing development to establish that a material start has been made to the single dwellinghouse and associated works approved under applications MA/06/0700 and MA/07/2315. Approved.

MA/07/0620 - Merriams Farm, Caring Lane, Leeds, Maidstone. Variation of conditions 14 and 15 of planning permission MA/06/0700 (Demolition of chicken sheds and erection of a new house) to allow details of fenestration to be submitted prior to installation and to allow details of eco-homes standard to be submitted prior to the occupation of the development. Approved.

MA/06/0700 - Merriams Farm, Caring Lane, Leeds, Maidstone. Demolition of chicken sheds and the erection of a new house, home office, garage, ancillary accommodation, swimming pool, access road, tractor shed, stables and landscaping. Approved.

3. CONSULTATIONS

- 3.1 **Maidstone Borough Council Landscape Officer** was consulted and made the following comments:
- 3.1.1 `Caring Wood is located within landscape character area 7, Greensand Fruit Belt, as designated within Maidstone's Landscape Character Assessment and Landscape Guidelines 2000. The area consists of mixed farming dominated by orchards and shelterbelts with pasture and some arable farming. There are considered to be few sites of conservation interest because the land has been extensively farmed. The key principles of this landscape type are restoration and extension of the existing landscape pattern of woodland, shelterbelts and hedges.
- 3.1.2 There are no protected trees or ancient woodlands within the development site but there are three new woodlands planted by the previous landowner under Forestry Commission woodland grant schemes (EWGS)
- 3.1.3 The applicant proposes to enhance wildlife habitats, restore historic field patterns and unimproved acid grassland, create meadows, orchards, nut platts, ponds and wetland areas together with implementing sustainable farming practices and locally appropriate fruit growing. The principles of this approach and the

associated proposed long term management strategy are very much welcomed. I, therefore, **RAISE NO OBJECTION** to this application on landscape grounds.'

3.2 Maidstone Borough Council Environmental Health Officer was consulted and raised no objections to this proposal.

3.2.1 'The site is in a relatively quiet rural area and traffic noise is not a problem. In the foul sewage section of the application form it states "see Sustainable Energy Strategy". Apparently all surface water and grey water will be collected and used on site but foul water from toilets will be connected to manholes for existing system; however, no further information to this has been supplied on page 14 of the Sustainable Energy Strategy supplied, so further information is required in this respect.

3.2.2 The site was previously solely agricultural, but a previous residential scheme has been implemented (the Flow House), and some of the site is still used for grazing and crops. A contaminated land condition was set in the decision notice relating to the flow House application, MA/06/0700; but I can find no trace of any contaminated land reports being received in relation to this application. Another application to convert two barns, MA/09/1409, on the old farm also had a contaminated land condition recommended by EH but in this particular case the decision notice had no such condition on it. Since we seem to have no contaminated land reports relating to the Merriam's Farm site I recommend that a contaminated land condition is set in relation to this latest application.'

3.3 Maidstone Borough Council Conservation Officer was consulted and raised no objections to this proposal.

3.4 Kent County Council Highways Services were consulted and raised no objections to this proposal.

3.5 Kent County Council Ecology were consulted and raised no objections to this proposal. They made the following comments:

3.5.1 'Under the Natural Environment and Rural Communities Act (2006), "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.

3.5.2 Planning Policy Statement 9: Biodiversity and Geological Conservation states that "the aim of planning decisions should be to prevent harm to biodiversity". Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and

Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that '*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.*'

- 3.5.3 Natural England has published Standing Advice on protected species and Ancient Woodland. When determining an application for development that is covered by the Standing Advice, Local Planning Authorities must take into account the Standing Advice. The Standing Advice is a material consideration in the determination of applications in the same way as a letter received from Natural England following consultation.
- 3.5.4 An *Ecological Scoping Survey* report and *Great Crested Newt Presence/Likely Absence Report* have been submitted in support of this application. We are satisfied with the ecological assessment and conclusions that are presented in these reports, but on consideration of the recommendations provided in the *Ecological Scoping Survey* report, we advise that further information must be provided to inform the determination of this application.
- 3.5.5 In section 4.7 of the report, a reptile survey is recommended for an area that will be directly affected by the proposed development. No reptile survey has been submitted with the application and we advise that this information is sought, including any necessary mitigation measures, prior to determination of the application.
- 3.5.6 From our assessment of the information provided, it seems that there will be a need for some scrub/tree removal in the vicinity of the proposed house. The vegetation removal must be carried out outside of the nesting bird season, unless preceded with an inspection for active bird nests, carried out by a suitably experienced ecologist.
- 3.5.7 With the exception of the potential impacts above, there is limited potential for ecological impacts as a result of the proposed development. Overall, given the differences between the current and proposed land use/management for the whole site, there is likely to be a net benefit for biodiversity in the long term. The FWAG *Whole Farm Conservation Plan* submitted with the application presents an action plan that, in combination with the recommendations provided in section 4.9 of the *Ecology Scoping Survey* report, will provide significant biodiversity enhancements.'

3.6 The South East Regional Design Panel were consulted and made the following comments:

- 3.6.1 'The Panel strongly supports the design of the house and would like to see it built. We welcome all the changes that have been made to the design, several of which are in response to comments and suggestions made at our last review. We would like to comment the quality of the material that you presented, including the models. We have only a few additional suggestions to make, which might help in further refining the project. Of there, the most important is the way by which the east and west approaches to the house are to be signalled. Our comments are as follows:
- 3.6.2 From our site visit we experienced the folds in the Kent Weald and appreciated the importance of positioning the house carefully. The computer generated images tabled at the meeting and those reproduced within the design and access statement confirm that the house will be visible from a distance, but we think that its profile will fit very well against the skyline and the trees. We do not know if the accuracy of the images have been verified but we understand that the house will be no more conspicuous than the approved Flow House, which was sited on higher ground.
- 3.6.3 We very much welcome the improvements that have been made to the overall design of the house, and we think the interior will work very well in terms of the brief set by Mr and Mrs Tracz. The free flowing open plan is clearly an important requirement but it may be worth considering whether doors could be introduced discreetly in places to ensure the house conserves energy as far as possible, especially during periods of under-occupation.
- 3.6.4 We continue to endorse the intelligent use of local materials including brick and tile and we think the square house motif is imaginatively used without resorting to mimicry. The house opens out to the countryside but we wonder if some of the openings might be perhaps slightly more generous, if this can be achieved without disrupting the balance of the composition.
- 3.6.5 We consider that the external areas including the sunken terraces work well in relation to the house and the surrounding countryside. Similarly the proposed planting will do much to integrate the new buildings with the landscape.
- 3.6.6 We support the redesign of the estate cottage, which will serve as a lodge to the main house. We believe however, that more could be done to distinguish between the arrival points from the east – at the cottage – and at the west (Caring Lane) and the thresholds could be marked in different ways.'

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

3.8 The Environment Agency were consulted and following the submission of a Flood Risk Assessment (as the site is over 1 hectare), no objections are raised.

3.9 Natural England were consulted and raised no objections to the proposal.

3.10 Kent Wildlife Trust were consulted and support the proposal. Their reasons for supporting the proposal are set out below:

3.10.1 'The proposal offers an exciting prospect of local environmental enrichment by harnessing landscape design, sustainable farming practices and Biodiversity Action Plan (BAP) habitat creation. I admire and commend the applicants' ambitions for their house and estate.

3.10.2 I am very happy, therefore, to lend my **support** to the application subject, of course, to the use of planning conditions and/or planning agreements to secure implementation of the landscape, farming and biodiversity elements of the overall scheme. One essential element of any management regime for the estate is the preparation of a biodiversity action plan (BAP). The ecologist's report makes mention of such a plan and suggests a series of initiatives that it might contain (paragraph 4.9). Disappointingly, however, FWAG's brief appears to focus primarily on "the economics of how to create a sustainable and productive small farm" (FWAG report, paragraph 1), although it does indicate the wildlife benefits of each of the six suggested crops. However, if "one of the key objectives is to truly enhance the ecological potential of the site" (Planning Statement, paragraph 6.7.3) then it is essential that an estate BAP is prepared and that a commitment to its implementation is secured by planning condition/agreement.

3.10.3 An estate BAP would establish a regime for the management, monitoring and review of key habitat and species assemblages across the whole estate. The process of compiling it would involve evaluating and prioritising the many opportunities for biodiversity enhancement identified in the application reports. It would have regard to woodland, shaws, hedgerows, parkland, water courses and ponds. It would identify the contribution that field margins, headlands and grassland can make to local biodiversity. A contribution may also come from green and/or brown roofs on some of the proposed buildings.'

3.11 Otham Parish Council (who are a neighbouring Parish) were consulted and made the following comments:

3.11.1 Please find below comments from Otham Parish Council to support their objections to the above planning application.

The Parish Council welcomes the opportunity given by this application to review

the use of this site. Our contention in our response to the Core Strategy Consultation was that the area along Caring Road should be retained as open farmland, and not developed with any new build. The proposed buildings, once built, could offer an opportunity in the future for a further application. This could be for change of use of the barn and associated works, or the building of further dwellings, thus creating a small hamlet.

The Parish Council is concerned by the inconsistency of the transport statements. There is no feasible road use from the site which does not utilise motorized transport. Furthermore the proposed new access onto Caring Road must result in extra vehicle movements onto a very narrow and quiet country lane. The council is also concerned that there will always be the danger of effluent discharge on this land. There are many underground water courses feeding the River Len, especially close to the western boundary of the site.

While the Parish Council can see that the architect is seeking to re-create an appearance of vernacular buildings, the Council is of the opinion that there is no aesthetic quality to the design.

It wishes furthermore to re-iterate that it considers such an experiment to be contrary to the aim of the Parish Council to maintain undeveloped greenfields in this area.

In the Parish Council's view this proposal would be a misuse of agricultural land in a particularly sensitive landscape, and would urge the Borough Council to reject this application.'

3.12 Leeds Parish Council (within which the site falls) were consulted and raised no objections to this proposal.

4. REPRESENTATIONS

4.1 Neighbouring properties were notified and two letters of objection have been received. The main concerns raised within these letters are:

- The idea of a 'PPS7 house' has become discredited, and will not form part of new government policy;
- This proposal is for two dwellings;
- The 'Flow House' included a number of public rights of way made available;
- The elevations are not traditional enough;
- Concerns about the change of access into the site;
- Concerns about the change of use of the farmland to orchard – the tree planting will overshadowing the neighbouring occupiers.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located within land identified as the open countryside within the Maidstone Borough Wide Local Plan (2000).
- 5.1.2 The total site area amounts to some 33.5 ha in area. The site comprises agricultural land last used between 1990 and 2004 in arable production and prior to that as orchards.
- 5.1.3 Access to the site is gained via the existing access to Merriams Farm running from Caring Lane. Public footpath KH264 runs north-south from the farm access between the farmhouse and the site of the former chicken sheds to meet another east-west footpath south of the site (KH257).
- 5.1.4 The site is approached from the south at present. The ground has been unnaturally flattened in this location by cutting into the existing slope to provide a level construction area to accommodate the sheds but returns to natural contours just prior to reaching the application site. On this approach a natural hollow occurs to the north east then rises gradually to the south site boundary. From the centre of the proposed site the land falls gently north until it reaches a ridge at which point the gradient increases rapidly to form a steep slope before it shallows out to a gradual descent to the northern boundary falling away towards Caring Lane and Caring Road and the River Len to the north. The main views are encompassed by an arc facing north running from east to west.
- 5.1.5 The landscape of the area is primarily created by a combination of mature boundary hedgerows, shaws and man-made shelter belts planted to protect orchards. The site is visible from Pilgrims Way running along the scarp slope of the North Downs some 3.5-4km north of the site.
- 5.1.6 There is existing sporadic residential development in the area the closes of which are some 190m north east of the site of the dwelling. The site itself is sited some 2km south east of the edge of the defined urban area of Maidstone 'as the crow flies.'

5.2 Proposal

- 5.2.1 The proposal is a full planning application for the erection of a detached dwelling together with an estate manager's house, and extensive landscape works. The overall size of the site amounts to 33.5 hectares. The proposed 'country house' would be of a significant scale, with an overall footprint of 44metres by 44metres at its widest point (this includes the four external 'oasts') – however the main body of the house would have a footprint of 24metres by 21 metres. The

proposed building would have a maximum height of 16.5metres – when viewed from the south.

5.2.2 As can be seen, this would be a substantial dwelling that would include the following accommodation:

- Entrance lobby/galleried landing;
- Mezzanine floor acting as an art gallery;
- Cinema room;
- Snooker room;
- Open plan kitchen, dining and living areas;
- Seven bedrooms, with ancillary bathroom facilities.

5.2.3 The proposed property would be of distinctive form, and located on a step slope, on the north-east side of the building. This topography would result in more of the building being 'exposed' on this side than on the south-western side. The building would consist of a main 'core' that would appear as single storey (albeit with a particularly large expanse of roof) from the south-west, but appear as three storey from the north-east. This main 'core' would have four oast-like projections, one upon each corner, which would create a building that would appear to have a particularly large expanse of roof. However, the roof would be sculptured, and as such, would not appear as monolithic or overly dominant within the landscape.

5.2.4 The base of the building would be constructed of Kentish ragstone, with the upper parts (both roofs and walls) to be clad with Kentish peg tiles (samples have been submitted of both). Much of the 'core' of the building would be provided with irregular fenestration, which would both project from the walls and be recessed within. This fenestration would be very simple in form, with large sheets of glass, and no glazing bars proposed.

5.2.5 Internally, the building would be arranged on three levels, with a mezzanine at the point of entry (top floor), which would be provide an area for the display of art, and for small, private concert performances. The floor below would provide the main living area, with kitchen, living room, dining area, snug/TV room, bedrooms and other private areas. Central to this area would be a courtyard which would be overlooked by these internal spaces. Underneath this level would be more private space, including a cinema, snooker room, and guest accommodation.

5.2.6 Externally, it is proposed that a terrace be provided to the south-east of the building, that would be accessed from the living area. This terrace would also contain an ornamental pond.

5.2.7 Moving from the 'core' of the building, it is proposed that four further oast like projections be erected, which although would still form part of the main building, and indeed would be accessed from the core, would appear as independent with a degree of separation. These elements would be again of ragstone and peg tile construction, with fenestration that is both recessed and that projects. These elements would be of significant scale, reflecting that of the 'core' of the building.

5.2.8 In addition to this, the proposal would include significant alterations to the landscape within the application site. This would include the following:

- A tree lined access into the site (lined with Black Poplars);
- Grazing pasture;
- Broadleaf tree plantation;
- Acid grassland;
- Cobnut orchard;
- Lavender field;
- Cherry orchard;
- A vineyard;
- Apple orchard;
- Wetlands.

5.2.9 The proposal would see the creation of a very informal landscape to the north and east of the site, which is the most visible from public vantage points, with the more formal agricultural area to the south and west of the dwelling. There would not be any significant area given over to 'private garden' for the future occupiers, although as stated above, there would be an internal courtyard, and private terrace for such a use.

5.2.10 In order to maintain this land, it is proposed that an estate manager's property also be provided. This property would contain two bedrooms, and living accommodation split over two floors (although this would be predominantly a single storey dwelling). The appearance of this dwelling would reflect that of the main house, with the inclusion of 'oast' features, as well as areas set aside as roof gardens above the single storey elements. This property would have a small private courtyard garden. This property would have a depth of 15metres, a width of 19metres and a maximum height of 12metres.

5.2.11 To the rear (south east) of the estate managers house, a barn is proposed that would have a width of 14.4metres and a depth of 5.6metres, with a maximum height of 2.7metres (provided with a flat, grass roof). Adjacent to this barn would be a would be a large solar array of approximately 60metres in length, which would also have storage beneath for farm machinery and associated paraphernalia.

5.2.12 A new access is proposed to be created to the north of the application site, onto Caring Road. This access would allow for direct access to the dwelling, with a separate access maintained past Merriam's Farm to the south-east for the agricultural holding – although indirect access to the house can also be provided from this end of the site.

5.2.13 In terms of sustainability, the applicant has demonstrated that the property can achieve level 6 of the code for sustainable homes, as well as achieving Passivhaus accreditation. The house will be self sustainable, and would see significant enhancements to the ecology of the locality through the works to the landscape.

5.2.14 Drainage is to be provided in the form of a SUDs scheme that will utilise soakaways and ponds within the application site.

5.3 Principle of Development

5.3.1 The application site lies within the open countryside, and as such the proposal, if approved, would be a departure from the Development Plan. Policy ENV28 of the Maidstone Borough Wide Local Plan (2000) sets out that development will not be permitted within the open countryside that would harm the character and appearance of the locality. There is a general presumption against the provision of new dwellings within the open countryside, as they would generally fail to comply with the above policy, and would also not accord with the principle of sustainable development that underwrites central government policy. In addition, the Council have identified a 5 year land supply for housing within the Borough, and as such, there is no *need* to provide sites such as this for new housing.

5.3.2 However, within the National Planning Policy Framework (which supersedes PPS7) allowance is made for the provision of new dwelling houses within the countryside, subject to the 'exceptional quality or innovative nature of the design of the dwelling.' In allowing such development, the Local Planning Authority should be satisfied that the proposal meets the following criteria (paragraph 55):

- It should be truly outstanding or innovative, helping raise the standards of more generally in rural areas;
- Reflect the highest standards in architecture;
- Significantly enhance its immediate setting; and
- Be sensitive to the defining characteristics of the local area.

5.3.3 This is slightly different from the criteria that was set out within paragraph 11 of (the now superseded) PPS7. As set out within this paragraph, the key elements

are that the development needs to be isolated, the design should be truly outstanding and ground-breaking, and the proposal should be of a contemporary form.

- 5.3.4 Maidstone has permitted houses of this 'type' in the past, on the basis of this support within Government policy irrespective of housing need. Previous permissions include properties at this site, Ivy Farm (although this is a resolution to grant) and Ewell Manor near West Farleigh. Whilst each case is determined on its merits, the Authority accepts the principle of allowing exceptionally designed dwelling houses within suitably designed grounds. Whilst a previously permitted scheme has been approved on this land, I am not of the opinion that this agrees the principle of this form of development, rather that the proposal is required to be looked at afresh, with all parts of the NPPF required to be satisfied before any new application can be approved.
- 5.3.5 To my mind, however, the fact that these proposals have been permitted in the past, raises the bar, in terms of innovation, and the quality of any future application that is required to be met, in order to receive a favourable recommendation, and decision. As such, this proposal should be *better*, both in terms of its contemporary design, and its sustainability than those previously permitted. I am therefore satisfied that the principle of development is acceptable, subject to the matters discussed above being addressed, and the building meeting the strict requirements of the National Planning Policy Framework.
- 5.3.6 In terms of the erection of an estate manager's property, Policy ENV28 of the Maidstone Wide Local Plan (2000) allows for the provision of such properties if there is a proven need for them. The applicant has submitted a significant level of information relating to the management of the land associated with the building of the new dwelling, and to my mind, the scale of the building proposed is not excessive for the size of the plot – which is in excess of 30 hectares. I therefore consider the principle of providing this form of accommodation within the site to be acceptable, and consistent with the Development Plan.

5.4 Architectural Quality

- 5.4.1 As set out above, the architecture of the proposed dwelling is required to be of the highest standard of contemporary design, and to incorporate ground breaking elements of sustainable construction. The development, designed by MacDonald Wright Architects has evolved through a series of pre-application meetings held with officers of the Council, and discussions with the South East Regional Design Panel (SERDP).

- 5.4.2 As can be seen from the site history, a previous permission has been granted upon this site for a 'PPS7 house.' However, both the design of this proposal, and its location have altered significantly from that approved scheme. This proposal seeks to be more prominent within the landscape, positioned on a steep slope, overlooking the valley.
- 5.4.3 As set out above, the NPPF requires that any development of this nature be innovative and of an exceptional standard of architecture. This is a particularly high test, and there needs to be a clear indication from the applicant, and a full analysis on how or why this test has been complied with. To this effect, the applicants have submitted a critical review of the proposal, that sets out that they consider the proposal to be an integration of three themes, namely: 1) Modernity, and in particular, the blending of abstraction with local identity and connection to place; 2) sustainability giving form and materiality to contemporary buildings, and: 3) that the vernacular is a repository of ecological wisdom and craft. I will address each of these elements separately, and conclude how they 'fit together,'
- 5.4.4 Modernity and local identity: The proposed dwelling is designed to respond to the traditional Kentish vernacular, in particular that of the oast house. However, I consider that the design of this dwelling goes further than to simply mimic the form and layout of a traditional oast, but rather to manipulate the form and create a sculptured, yet subtle form that clearly draws reference from the oast vernacular, but also retains an individualistic form.
- 5.4.5 The proposal would see the creation of four raised elements, that would have an angular form. It is this part of the proposed dwelling that would most closely mimic the oast form, however, the cluster in which they form, being within an irregular 'square' is not a recognisable layout for such a building. In addition, the position of the oast, upon a steep escarpment, is not where one would expect to see an oast house, whilst are traditionally located within flatter, or more gently undulating landscapes (due to the use to which they are associated). However, the architect has sought to not only respond to the Kentish vernacular in terms of the 'oast,' but also to draw significant reference from the strong arts and crafts influences that run through the county, and in particular the Maidstone area. The arts and crafts movement, with its strong chimney and gable features are incorporated within the form and materials used within the four towers or 'kilns,' within the proposed dwelling, responding positively to the tile hanging, and strong triangular forms of the this aforementioned style.
- 5.4.6 The central element of the proposed dwelling would see the creation of a courtyard area – although this would not be seen from the exterior of the building. However, this element would also incorporate the 'kiln' form, again with four kilns proposed, within an inner cluster. This inner cluster, would however,

be sculptured in a different manner insofar as the 'kilns' would be linked by cascading roofs, that would be set at different angles. The roof materials proposed within this development would be of hand made clay tiles (samples of which have been submitted), that would provide a rich, and layered appearance to the roofslope – which would be the dominant form of the building when viewed from the open countryside. The lower levels of the building would be provided with a ragstone plinth, although this would not be at a regular height around the whole building, rather it would rise and fall at different points. This would give the impression of the property rising from the ground, in a relatively organic manner, again highlighting the relationship between the building and the land.

- 5.4.7 The building would be relatively inward looking, with relatively little fenestration upon its outside skin, particularly facing out to the countryside. This again, responds to the idea of the property drawing reference from the form of a kilns – as these have little, if any fenestration. However, the fenestration that is proposed, is provided in a relatively abstract manner, with both projecting and recessed windows, of varying size, and at differing levels within the structure. This is a form that can be seen in many Arts and Crafts dwellings within the country – a prime example being the Red House (Philip Webb) in Bexleyheath. Again, however, this modern interpretation of this arts and craft style draws wider influence from more contemporary architecture with the use of large (singular) glazing panels, and projecting elements.
- 5.4.8 I consider that the architecture responds to the topography of the land to a high standard. Whilst constructed over three floors, the roof is sculptured to be at a lower level as the land falls away. The fenestration within the elevations also responds to the topography within the land, and the subsequent shape and height of the roof. Whilst many of the traditional country houses would have manipulated the land to 'fit' the house, I consider this approach to not only be architecturally interesting, but to take a very delicate and sensitive approach to its relationship with the land – which in turn incorporates the building into the landscape successfully irrespective of its scale.
- 5.4.9 In terms of the materials proposed, the use of ragstone as the base is welcomed, and the fact that this base would form a continuous 'line' around the base, but this would rather raise and fall. Above this, the walls would be constructed of Kentish peg tiles – a sample of which has been submitted. Likewise the roof material would be of the same peg tiles. This 'blurring' of the roof and walls adds further subtlety to the design of this proposal, and the earthy colour of the materials will ensure that the building would not further integrate into the surroundings.

- 5.4.10 Whilst there would be a reasonable level of glazing upon the north-west and north east elevations, I consider that this would 'break up' the mass of the building successfully. This glazing would be both recessed and projecting, which would successfully layer the building. To ensure that the building works are carried out in accordance with the approved plans, providing a high quality of development the precise details of the windows will be subject to a condition imposed should permission be granted.
- 5.4.11 In terms of the estate manager's dwelling, and associated out buildings, these draw reference from the main dwelling itself – using materials and form utilised within the main building. I consider this to be a well designed building that compliments the setting of the main dwelling, and the surrounding countryside.
- 5.4.12 I consider the design of the proposal to be particularly well considered, and to represent a very high standard of contemporary design, thereby complying with the criteria of the NPPF. The architect has fully considered the local vernacular and incorporated both materials and form into the new dwellings (and associated outbuildings). Another of the requirements of the NPPF is that any proposal should be 'sensitive to the defining characteristics of the local area.' Whilst this would be a large building within the landscape, with a significant expanse of roof, I consider it to be both located and designed in such a way that it would not appear as monolithic, and would not detract from the open landscape within which it would sit. I consider therefore, that this proposal meets this requirement.

5.4 Visual Impact

- 5.4.1 The applicant has submitted a full landscape and visual impact appraisal with the application. Due to the positioning of the building, which is designed in part to take advantage of the long ranging views, the building would be partially visible from long distance views, particularly when viewed from the north and east. However, to my mind, the requirement of government guidance for such buildings to be of the highest standard of architecture ensures that the building would be a feature of the landscape rather than an obtrusive feature within it. The site would be visible from parts of the North Downs, approximately 4km from the site, and from Old Mill Road, some 1km away.
- 5.4.2 Whilst the building is proposed over three floors, much of this floorspace would be beneath the ground level or would not be visible from longer distance views, due to the topography of the land. However, the most exposed elevation, being that facing north-east would be in part visible from Caring Road, through breaks in the hedge and tree line – in particular from an existing access point into the adjacent field. However, due to both the existing and proposed landscaping this would be glimpses of the building, rather than clear views through. There would

be no views of the building from Caring Lane, as there is a variety of fences, walls and hedging adjacent to this road within the vicinity of the site. At its closest point, the main dwelling would be some 250metres from Caring Road, and 300metres from Caring Lane.

- 5.4.3 The building is likely to be more visible from the golf course (Tudor Park) to the east, as this sits within slightly elevated ground. However, the building would be some distance away from this course, and its impact would therefore be limited.
- 5.4.4 In terms of the ancillary buildings, including the estate manager's dwelling, I don't consider that these would have a significant impact upon the character and appearance of the locality. Both the estate manager's dwelling and the barn would be positioned to the eastern end of the site, closest to the existing cluster of buildings that are associated with Merriam's Farm. The barn (and solar array) would be positioned to the south of an area of apple orchard, which would provide a softening effect from the access, and the estate manager's dwelling would be surrounded by a cherry orchard and other fruit trees. Again, these buildings would not be visible from Caring Lane, and views would be limited from longer distances.
- 5.4.5 Public Rights of Way KH264, and KH257 run either through, or adjacent to the application site to the north, south and the west. Where these run through the site, they are to be maintained. Having walked along these paths, the proposed dwelling would be in part visible from them, however, again, due to the topography of the land (the land rises further to the south of the property, before falling at the point of the footpath) I do not consider that it would appear out of scale with the surrounding countryside.
- 5.4.6 The new access to the north of the site would sit within a more open area of land, and as such, this would change the character and appearance of the locality to a greater extent. However, due to the landscaping proposed on either side of the access, I consider that this change in character to be acceptable, and raise no objection on this basis.
- 5.4.7 Of significant importance to this proposal is the level of additional planting proposed within the application site. Not only does this benefit the ecology within the site, but it also provides a well structured setting for this building, drawing reference once again to the rural history of the locality, and to a lesser extent providing a frame for the building itself – i.e. tree planting on either side of the property. The enhancement of the existing landscaping in this manner, adds further interest from long distance views, and softening the impact of the main house itself.

5.4.8 There would be some night time effects created by this proposal. The area around the site at present has few light sources of any significance although there are several properties nearby. The design of the proposal would not significantly alter this, with the level of fenestration no considered excessive, and mostly at a lower level within the dwelling.

5.4.9 There are a number of listed buildings near to the application site. Due to the quality of the design of this proposal, and the distance between the property and the listed building, I do not consider that there would be any detrimental impact upon their setting – the Conservation Officer concurs with this view.

5.4.10 I therefore consider that the proposal has been located, and orientated in such a way as to have no detrimental impact upon the character of the locality. I therefore see no grounds to object to this proposal on this basis.

5.5 Sustainability

5.5.1 The applicant has submitted a full sustainability appraisal with the application that sets out the methods of construction, and long term maintenance that would be used during the lifespan of this property. The proposal sets out that the site aims to be a 'carbon neutral estate' once fully operational. A summary of the measures proposed is set out below:

- Rainwater harvesting;
- Introduction of drought resistant crops;
- 100% offset of all CO2 associated with the energy consumption of the estate;
- Code for Sustainable Homes Level 6;
- Net negative CO2 emissions;
- Passivhaus certified;
- 100% of power consumption from photovoltaic array;
- First hybrid GSHP/EASP heating system in the UK
- Cross laminated timber structure generating no waste – with all off cut, wood shavings, and sawdust reused to manufacture biomass pellets.

5.5.2 Whilst the requirement of PPS7 for a development of this type to be ground breaking and truly innovative no longer remains, to there is still a requirement for the development to be 'outstanding' or 'innovative.' As such, it is important to fully assess how sustainable the building would be, both in terms of construction, and also its future operation.

5.5.3 Firstly, achieving level 6 of the Code for Sustainable Homes is a significant achievement. Much of this is down to the level of insulation proposed, and the manner in which the energy for the building is generated. The key features of achieving this high level are:

- The building must be Zero Carbon – the proposed buildings are net Carbon negative.
- Water consumption must be no more than 80 litres per person/per day – the proposal is for 75 litres per person/per day.
- At least three major building elements must be rated D, or better in the Green Guide – The roof and walls will have an A+ rating, and all of the remainder will have a minimum B rating.
- Surface water run-off rates and annual volumes of run-off post development must be no greater than the previous conditions of the site – the scheme will employ rainwater harvesting, surface water attenuation and SUDs to achieve this requirement.
- All the principles of lifetime homes must be complied with – they are incorporated within this development.

5.5.4 Secondly, the applicant is seeking Passivhaus accreditation. This is more focused than the Code for Sustainable Homes in that it looks at energy consumption and CO2 emissions. The accreditation would be achieved by a combination of very high insulation levels, extremely high 'airtightness' and maximisation of passive heat gains from the occupants and winter sun.

5.5.5 In terms of water management it is proposed that all of the estate will utilise low flow sanitary fixtures and fittings, and water efficient white goods and rainwater harvesting for toilet flushing. It is also proposed that all run-off from the site would be attenuated and then diverted into soakaways or ponds. From the ponds, the water will be used for irrigation across the gardens and farms.

5.5.6 I am therefore satisfied that the proposed dwelling would be constructed in a sustainable manner, and its future operation will be as sustainable as possible. There are small elements of innovation within the design of the proposal, which as an overall concept (or package) appears particularly effective. I therefore consider that this proposal does comply with the requirements of the NPPF.

5.5 Residential Amenity

5.5.1 The proposed (main) dwelling would be set a significant distance from any existing neighbouring properties (approximately 300metres from Meeriam's Farm and 290metres from Rose Cottage, 280metres from Merrihill and 230metres from Caring Cottage), and as such, I do not consider that it would have any significant impact upon the residential amenity of the neighbouring properties. In terms of the access point, again, due to their location, I do not consider that these would give rise to any significant noise and disturbance to existing occupiers.

5.5.2 The proposed estate manager's dwelling would be approximately 190metres from Merriam's Farm, 200metres from Rose Cottage, and 210metres from Merrihill. Again, these separation distances are sufficient to ensure that there is no significant impact upon residential amenity to the occupiers of these properties.

5.5.2 Whilst the applicant is intending to farm the land, in perhaps a more intense manner than at present, the site is categorised as agricultural land, and as such this does not require the benefit of planning permission. In any event, the applicant has not indicated that the type of farming to take place would be so intense as to generate a level of noise and disturbance that one would not expect within a rural location. Whilst concern has been raised by a neighbouring occupier about the potential for overshadowing to be caused by tree planting in the grounds, it should be noted that tree planting does not require the benefit of planning permission, and could be undertaken without the consent of this Authority. In any event, I do not consider the planting of an orchard to have a detrimental impact upon the living conditions of neighbouring occupiers.

5.5.3 As such, I consider that this proposal would not have a detrimental impact upon the amenities of the existing neighbouring occupiers.

5.6 Highways

5.6.1 Kent Highway Services raise no objection to this proposal. The proposal is to create a new access to the north west of the application site that would run into the application site through the existing patchwork of fields. This access has been designed in such a way as to have suitable visibility splays on either side, and as this is a private access, rather than a public right of way, I am satisfied that the access would not require passing places etc.

5.6.2 The proposal would generate a level of additional farm traffic by virtue of the proposed intensification of farming activity. However, I am not of the opinion that this would be excessive, and in any event, the more intensive use of the land would not require the benefit of planning permission. As such, I see no reason to object to this proposal on highway safety grounds.

5.7 Landscaping and Ecology

5.7.1 The applicant has submitted a full landscape assessment with the application which sets out the methodology and rationale behind the proposed landscaping scheme. In doing this, a full appraisal of the existing uses, and the historic characteristics of the Wealden Greensand Area have been undertaken.

5.7.2 The applicant's architects have explained that the route of the access into the application site to the dwelling would draw direct reference from the manner in which landscaping would have been provided to more traditional country houses in the past. This would include open views across meadow land, as well as through tree lined avenues, and woodland.

5.7.3 Areas of orchard are proposed within the development, that would be provided with species of trees disseminated from the National Fruit collection at Brogdale in Faversham. This would assist with the long term protection of several species (many of which are local varieties), as well as ensuring that the proposal provides a varied habitat for wildlife.

5.7.4 In terms of the types of agriculture proposed, this can be broken down into six distinct areas. These are set out below:

- 1) Grazing Land – the proposal is for the mosaic of productive farmland and enhanced wildlife habitat within this area to the north of the site.
- 2) Nuttery – It is proposed that both Cobnuts and Walnuts be grown within the application site. Cobnuts are a traditional Kentish product, although the level of production has decreased significantly in recent years. Walnuts are a less traditional crop within Kent, with the majority previously being imported from Europe. However, due to the warmer summers within the south east, it is now possible to grow this crop more reliably, and as such, this production will provide a more sustainable option for UK vendors.
- 3) Cherry Orchard – It is intended to grow both sour and sweet cherry varieties. These are considered very much a traditional Kentish crop. The majority of cherries now grown in Kent is that of the sweet cherry, but it is proposed to also grow Morello cherries, which are now less common within the county. Morello cherries are particularly good for attracting bees and other insects.
- 4) Lavender – The applicant has submitted information indicating that the production of lavender is undergoing somewhat of a renaissance within Kent. A distillery for the lavender oil is proposed within the storage barn.
- 5) Vineyard – Whilst not traditionally associated with the south-east of England, there is a history of vineyards in Kent since Roman times, and there are growing numbers of vineyards now in operation within the region. The linear form of the vineyard is akin to the traditional hop growing of the area, and would as such, would reflect this historic field pattern. Only a small portion of the land (approximately 143,000 sqm) would be used for this purpose.

6) Apple Orchard – it is proposed that a significant number of new trees be planted within an orchard to the eastern part of the application site. Apple Orchards are a traditional part of the Kentish countryside, and it is proposed to bring in species from Brogdale that are less common within the locality.

5.7.5 I consider the level of planting proposed to respond to the character and appearance of the locality. The majority of more formal planting is to be located upon the southern side of the site, to take advantage of the greater sunlight, with the more open northern side of the site kept more organic, and natural in appearance. Whilst there is a wide variety of planting proposed, careful consideration has again been given to the species, looking not just at the yield but their historic relationship with the region.

5.7.6 The retention of an open area to the north of the building is welcomed, as should this be planted, it would have a significant impact upon the character of the area due to the sharp rise in the land.

5.7.7 In terms of ecology, the applicant's agent has provided a stage one habitat survey of the site. A total of 190 species of plants and animals were recorded within the site – including 23 bird species, signs of badger, and suitable habitat for reptiles was discovered. Of the plants discovered, none were considered to be of any significance. With regards to the bird species, the proposal would not have a detrimental impact due to the position of the proposed buildings being where there are few trees and shrubs, and the increase in planting proposed. Likewise, the potential badger sett would be a significant distance away from the proposed dwellings, and would therefore be unaffected.

5.7.8 The proposal would result in the enhancement of the site for biodiversity, with the inclusion of new wetlands/ponds. Furthermore, the landscaping plan for the site would create a varied landscape that would be managed without chemical control. The information submitted (and this is supported by both KCC Ecology and the Kent Wildlife Trust) demonstrates that there should be an enhancement, which I consider to bring significant benefit to the area.

5.8 Other Matters

5.8.1 The applicant has submitted a flood risk assessment with the application. This indicates that the proposal would not give rise to any flooding issues. The Environment Agency have assessed this document and are satisfied with its findings.

- 5.8.2 In terms of drainage, the applicants have demonstrated that the site could be adequately drained, with much of the water to be re-used for the watering of plants within the farm. I therefore raise no objection on this basis.
- 5.8.3 The applicant has not submitted any details of external lighting, and as such, in order to ensure that there is not significant glare to the surrounding open countryside, I suggest a condition be imposed that requires the submission of such information prior to the works beginning on site.

6. CONCLUSION

- 6.1 In order that any application for a 'PPS7 House' be permitted, it has to meet with the strict criteria set out within this government guidance. This should therefore be a very difficult standard to achieve. As Members are aware, Maidstone has had a small number of applications to build houses on the basis that they are of exceptional architectural quality, and are innovative in design and sustainability, and there is an argument that these types of properties should only be approved in exceptional circumstances. There has been a previous permission on this site for such a property (albeit in a slightly different location) however to my mind this does not set a precedent – as an application of this nature should be looked at 'with fresh eyes,' with each element re-assessed.
- 6.2 To my mind, this proposal does represent a very high standard of contemporary architecture. The building would be a contemporary take on a Kentish vernacular, that responds positively to both the topography of the application site, and the wider landscape. The quality of design is reflected in the thought that has gone into both the internal and external spaces, and the materials to be used in the construction of the building.
- 6.3 In addition to the quality of the architecture, the proposal would be constructed to a particularly high standard of sustainable design. Not only would the proposal be constructed to level 6 of the Code for Sustainable Homes, but would also be built to achieve Passivhaus accreditation. The complexity of achieving both is significant. In addition, there are a number of other features that are being provided that would make this an exemplar building, within the landscape, and as such I consider it to meet with the criteria of the guidance.
- 6.4 The proposal would have no significant impact upon the amenities of neighbouring occupiers, and the landscaping proposals would enhance both the quality of the countryside, and the ecology within the locality. As such, I recommend that the application be approved, subject to the 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. The Council will expect the development hereby permitted to be carried out in accordance with the approved plans, any subsequent changes which are not trivial will require the submission of a new planning application;

Reason: The quality of the detailed design has been the key factor in permitting this application and in accordance with the National Planning Policy Framework (2012).

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class(es) A, B, C, D, E, F, G and H and Part 2 Class A to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the property and the surrounding area, and in acknowledgement of the special circumstances of permitting this development, pursuant to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework (2012).

4. The development shall not commence until, written details and samples of any materials not yet submitted (i.e. not the ragstone and Kent peg tile) to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a high quality appearance to the development, in accordance with the National Planning Policy Framework (2012).

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 ten 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 high quality setting and external appearance to the development pursuant to policies ENV16 and ENV28 of the Maidstone Borough-wide Local Plan 2000 and the National Planning Policy Framework (2012).

6. 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 (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 pursuant to policy T13 of the Maidstone Borough-wide Local Plan 2000.

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

Reason: To ensure a high quality appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers pursuant to the National Planning Policy Framework (2012). and policy ENV28 of the Maidstone Borough-wide Local Plan 2000.

8. The development hereby permitted shall not commence until a scheme for the disposal of foul and surface waters has been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To prevent pollution of the water environment and to ensure a satisfactory means of drainage to the site pursuant to the National Planning Policy Framework (2012).

9. No development shall take place until precise details (at a scale of 1:10 or 1:5) of the fenestration (including the details of recesses/projections have been submitted to and approved in writing by the Local Planning Authority. Such

details as are approved shall be provided, and thereafter maintained within the development hereby permitted.

Reason: To ensure an exceptional level of design, in accordance with the National Planning Policy Framework (2012).

10. No external meter cupboards, vents, flues or extract grilles shall be installed on any external elevation without the prior agreement in writing of the Local Planning Authority.

Reason: To secure a high standard of design in accordance with the National Planning Policy Framework (2012).

11. The development shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with the National Planning Policy Framework (2012).

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

Reason: To ensure a high quality of sustainable design, in accordance with the National Planning Policy Framework (2012).

13. No development shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000.

14. No structure, plant, equipment or machinery shall be placed, erected, or installed on or above the roof or on external walls of any building without the prior approval in writing of the local planning authority;

Reason: To preserve the integrity of the design of the development pursuant to the National Planning Policy Framework (2012).

15. No development shall take place until details of the proposed foul and surface water drainage works including details of the waste water goods (which shall be of cast iron or aluminium), and measures to safeguard the existing public foul sewer within the site during the course of development have been submitted to and approved in writing by the local planning authority and these works shall be completed in accordance with the approved details before the first occupation of any of the dwellings.

Reason: To ensure adequate drainage arrangements pursuant to the National Planning Policy Framework (2012).

16. 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'. 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 high quality setting and external appearance to the development in accordance with the National Planning Policy Framework (2012).

17. No development shall take place until a sample panel of the ragstone wall, and brickwork has been constructed on site, and agreed in writing by the Local Planning Authority. Such details as are approved shall be fully implemented on site.

Reason: To ensure a high quality design, in accordance with the National Planning Policy Framework (2012).

18. The development hereby permitted shall be carried out in accordance with the 'whole farm conservation plan' submitted on the 18 October 2011. No occupation of the development shall take place until the mitigation proposed within the ecological report has been fully implemented.

Reason: To ensure enhancements to the biodiversity of the area, and to ensure that the development as a whole is of a high standard of (landscape) design in accordance with the National Planning Policy Framework (2012).

19. The development hereby permitted by this planning permission shall not be commenced until details of the phasing details of the implementation of the landscape master plan as shown the submitted landscaping plans have been submitted and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the development will enhance the setting of the adjacent listed building and the character, visual amenity and biodiversity of the area in accordance with policy ENV28 of the Maidstone Borough-wide Local Plan 2000 and the advice the National Planning Policy Framework (2012).

20. No development shall commence until:

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

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

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

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

Reason: To prevent harm to human health and pollution of the environment reason pursuant to the National Planning Policy Framework (2012).

21. The development shall be carried out in accordance with the landscaping scheme submitted on the 18 October 2011.

Reason: To ensure a high quality setting of the building, and in the interests of biodiversity in accordance with the National Planning Policy Framework (2012).

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

Reason: To ensure a satisfactory setting and external appearance to the development pursuant to policies ENV6 and ENV28 of the Maidstone Borough-wide Local Plan 2000.

23. The additional accommodation to the principal dwelling hereby permitted shall not be sub-divided, separated or altered in any way so as to create a separate self-contained unit;

Reason: Its use as a separate unit would be contrary to the provisions of the development plan for the area within which the site is located and would therefore be contrary to the provisions of policy ENV28 of the Maidstone Borough-wide Local Plan 2000.

24. The occupation of the estate managers dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined in Section 336 (1) of the Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, and to any resident dependants;

Reason: The site is in an area where new residential development is not normally permitted unless essentially required for the proper functioning of the enterprise concerned in accordance with Policy ENV28 of the Maidstone Wide Local Plan 2000.

Informatives set out below

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

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

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

No vehicles may arrive, depart, be loaded or unloaded within the general site, and plant and machinery shall not be operated, that would generate noise beyond and boundary of the site, except between the hours of 0800 hours and 1800 Mondays to Fridays and 0800 and 1300 hours on Saturdays (and at no time on Sundays or Bank or Public Holidays).

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

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

REASON FOR APPROVAL

The proposed development is considered to be an example of ground breaking contemporary architecture in accordance with the advice in the National Planning Policy Framework (2012), this together with the other benefits of the scheme in securing improvements to the character and appearance of the surrounding land

and the wider landscape are such that they are considered to override the normal presumption against new residential development in the countryside contained in the Development Plan (Maidstone Borough-wide Local Plan 2000 and South East Plan 2009).







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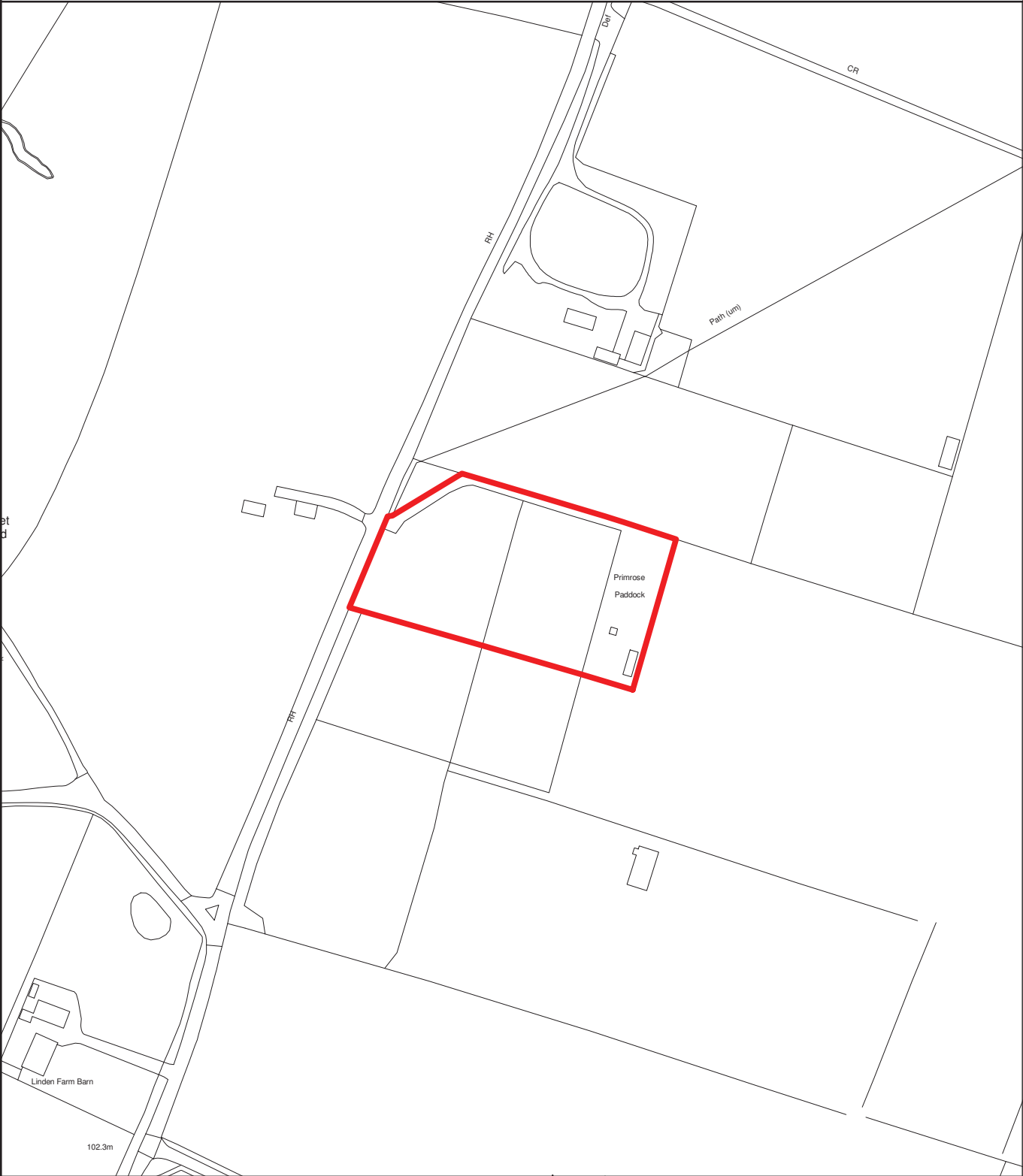
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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/2214

GRID REF: TQ7451

**PRIMROSE PADDOCK, STOCKETT LANE,
EAST FARLEIGH.**



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**Rob Jarman
Head of Planning**

APPLICATION: MA/11/2214 Date: 29 December 2011 Received: 29 December 2011

APPLICANT: Mr & Mrs Draper

LOCATION: PRIMROSE PADDOCK, STOCKETT LANE, EAST FARLEIGH, MAIDSTONE, KENT, ME15 0QG

PARISH: Coxheath

PROPOSAL: Variation of conditions 2 and 3 of appeal decision MA/04/2010 to allow the permission to include Mr Jimmy Draper (son of Mr & Mrs Draper).

AGENDA DATE: 19th April 2012

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Coxheath Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV32
- South East Plan 2009: CC1, CC6, C4, H4
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

2. RELEVANT HISTORY

- MA/04/2010 – A change of use of the land to a gypsy site incorporating the stationing of one mobile home and one touring caravan – REFUSED – ALLOWED AT APPEAL (November 2005). I attach a copy of the appeal decision at Appendix 1 for Members information.

3. CONSULTATIONS

Coxheath Parish Council wish to see the application REFUSED and request that the application is reported to the Planning Committee stating:-

“Having considered the application and having looked again at the appeal decision in respect of application MA/04/2010, Coxheath Parish Council does not accept that there are grounds for varying the original decision. Both Maidstone

Borough Council and Coxheath Parish Council objected to the original application on the grounds that it was contrary to local plan policy, that the applicants failed to fall within the accepted definition of gypsies, that the development was intrusive into the countryside and that access to the site gave rise to conditions detrimental to highway safety.

The Planning Inspector overturned the Maidstone Borough Council decision on appeal, largely because of claims that the health of Mrs Draper would be adversely affected if she was not allowed to live on the site. Hence conditions 2 and 3 are very specific in allowing only the caravans to be sited at this location whilst Mr Chris Draper and Mrs Diane Draper are alive and when this is not the case, the site will have to be returned to its former condition. Presumably this would not have prevented Mr Jimmy Draper from living with his parents during that time.

In these circumstances and in view of the fact that the original reasons for refusal have not changed, the Parish Council's recommendation is that this application should be refused."

4. REPRESENTATIONS

4.1 No Responses.

5. CONSIDERATIONS

5.1 Site Location and Description

5.1.1 The site is a current gypsy site and is located in the open countryside on the east side of Stockett Lane approximately 300m north of the village boundary of Coxheath. The site falls within the Southern Anti-coalescence Belt as designated by policy ENV32 of the Maidstone Borough-Wide Local Plan (2000). The residential part of the site where the caravans are stationed is set a significant distance back from the road, in excess of 100m from Stockett Lane. The front portion of the site is used as grazing land for horses. At the entrance to the site is a public footpath KM49 that goes from Stockett Lane in a north easterly direction and connects to Busbridge Road.

5.1.2 The hardstanding and access already exists and there are a mobile home and touring caravan on the site, in compliance with the permission granted at appeal under reference MA/04/2010.

5.1.3 On the opposite side of Stockett Lane is an access and buildings for the 'Army Hut Farm Stables', which are surrounded by open fields and woodland beyond. To the north, immediately adjacent to the site, is another gypsy site known as

'Blossom Lodge', which was granted permanent consent under MA/08/0671 for two mobile homes and two touring caravans. There were no conditions attached to the permission relating to a personal consent i.e. it is an unrestricted permanent site for gypsies. Beyond 'Blossom Lodge' is another gypsy site that is well established and known as 'Silver Lees'.

- 5.1.4 To the east of the site are open agricultural fields interspersed with sporadic development at locations such as Forstal Farm and Coxheath Wastewater Plant.
- 5.1.5 The nearest residential properties (bricks and mortar dwellings) are in excess of 300m in a southerly direction from the residential portion of the site.

5.2 Proposal

- 5.2.1 The application is proposed and is to vary conditions of the original planning permission granted at appeal (MA/04/2010) to enable Mr and Mrs Draper's son (Mr Jimmy Draper) to reside on the site and to allow a mobile home to be stationed on the site instead of the permitted touring caravan.

5.3 Principle of Development

- 5.3.1 This site has planning permission for use as a gypsy site including the stationing of two caravans (1 mobile and 1 touring caravan). This followed a Public Inquiry in 2005 where the Inspector granted a permanent personal consent for Mr and Mrs Draper.
- 5.3.2 It is clear that from the decision that the principle of the use of the site as a gypsy site is acceptable. This application will create an additional pitch on the site (although no increase in the number of caravans) due to the fact that Mr Jimmy Draper would be living as a separate household, rather than as a dependant of Mr and Mrs Draper.
- 5.3.3 In view of this I consider the general policy background of gypsy applications to be relevant. 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"

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.

5.3.4 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.

5.3.5 A key consideration in the determination of this application is central Government guidance contained with *Planning Policy for traveller sites* published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

5.3.6 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 in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council has procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concludes the following need for pitches over the remaining Core Strategy period:-

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 – March 2026	157 pitches

These figures were agreed by Cabinet on the 14th March 2012 as the pitch target to be included in the next consultation version of the Core Strategy.

5.3.7 Draft Policy CS12 of the Regulation 25 version of the Core Strategy outlines that the Borough need for gypsy and traveller pitches will be addressed through the granting of planning permissions and through the Development Delivery DPD.

5.3.8 The Development Delivery DPD will allocate the specific sites for residential (including gypsy sites) and non-residential development, as well as dealing with

landscape designations and village boundaries. The current timetable indicates that the Development Delivery DPD is scheduled for adoption in March 2015.

- 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 Annex 1 of Planning Policy for traveller sites (2012) 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 The gypsy status of Mr and Mrs Draper was thoroughly tested at the Public Inquiry into MA/04/2010 as part of the Council's reason for refusal centred on the fact that the Council did not consider that Mr and Mrs Draper were gypsies. The Inspector in his considerations accepted the gypsy status of Mr and Mrs Draper.
- 5.4.3 The evidence put forward for Mr Jimmy Draper indicates that he currently has no fixed abode and is living with friends and family in Kent and Sussex. He has worked in agriculture and undertaking tarmac paving as well as working at a pallet factory. His lack of a permanent home is acting as a barrier to him finding employment at this time. On the evidence provided I consider that Mr Jimmy Draper does comply with the definition of a gypsy and the application should be determined as such.

5.5 Need for Gypsy Sites

- 5.5.1 Planning Policy for traveller sites gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.
- 5.5.2 A Gypsy and Traveller Accommodation Assessment (GTAA) was conducted previously to assess the level of need for gypsy accommodation over the five year period from April 2006 to April 2011 and resulted in the overall pitch requirement being identified of 44 pitches for the whole 5 year period.

5.5.3 Between 1 April 2006 and 31 September 2011 the following permissions for mobiles have been granted (net):

- 41 Permanent non-personal permissions
- 18 Permanent personal permissions
- 8 Temporary non-personal permissions
- 29 Temporary personal permissions

Therefore a net total of 59 permanent planning permissions for mobiles have been granted between 1 April 2006 and 31 September 2011.

5.5.4 The latest GTAA (2011-2026) provides the projection of accommodation requirements as follows –

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 – March 2026	157 pitches

The requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. Therefore although the pitch target is high for the first five years, the immediate need is not, in my view, overriding.

5.5.5 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

- 14 Permanent non-personal permissions
- 5 Permanent personal permissions
- 0 Temporary non-personal permissions
- 1 Temporary personal permissions

Therefore a net total of 19 permanent pitches have been granted since 1st October 2011.

5.5.6 In terms of unauthorised caravans, based on the bi-annual gypsy and traveller count figures from the July 2011 count and according to the Council's database at the time of writing this report, there were 22 unauthorised mobile homes and 18 unauthorised touring caravans on 22 unauthorised sites. The number of unauthorised mobiles and touring caravans was fully taken into account in pitch need figures in the latest GTAA.

5.5.7 It is considered that the Council met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues as revealed in the latest GTAA.

5.6 Visual Impact

5.6.1 The latest guidance in the Government's Planning Policy for Traveller Sites states that Local Planning Authorities should strictly limit new traveller development in open countryside (para 23) but goes on to state that where sites are in rural areas the considerations are issues of not dominating the nearest settled community and not placing undue pressure on local infrastructure.

5.6.2 As part of the Council's reason for refusal it was argued that the development was visually intrusive particularly from Stockett Lane and the footpath and would result in harm to the character and appearance of the area. The Inspector in his decision considered the impact on the countryside was acceptable stating in paragraph 8 of the decision:-

"In these circumstances I consider that the limited visibility of the proposed development would be entirely consistent with the character and appearance of the local landscape. So too would any increase in its visibility during the winter, because I would expect that other caravans in the vicinity would also become more apparent at those times."

5.6.3 The landscaping secured as part of the Inspectors decision has been carried out and in my view the visual impact of the site is less now than it was when the appeal was considered in 2005.

5.6.4 The development would not result in an increase in the number of caravans on the site or the level of hardstanding provided. I accept that the creation of a new household on the site may result in an increase in the level of domestic paraphernalia such as washing on line, vehicles parked at the site, etc. However, I do not consider that these additional elements on the site would significantly increase the level of visual harm caused by the site.

5.6.5 The proposal would have no significant impact on the Southern Anti-Coalescence Belt.

5.6.6 As such I do not consider that the visual impact of the proposal would be unacceptable.

5.7 Highway Safety

5.7.1 As part of the Council's refusal of the original application (MA/04/2010) it was argued that the visibility onto Stockett Lane was inadequate and would result in highway safety problems.

5.7.2 At the appeal the visibility at the access was a main consideration. The appellants agreed to increase the visibility within the land under their control and the Inspector stated in paragraph 14 and 15 of his decision:-

"Therefore I conclude that the harm arising from additional turning traffic generated by the appeal proposals would be overcome by the provision of visibility splays to the north and south as proposed.

Hence, subject to the imposition of a condition requiring such splays (without which permission should be refused) I conclude that no serious harm to the safety of road users would arise from the traffic generated by the development."

5.7.3 The condition details were submitted and approved under MA/04/2010/C02 and have been implemented. I do not consider that the increase in traffic caused by the creation of an additional household on the site would have a significant impact on the safety of road users.

5.8 Residential Amenity

5.8.1 There are no residential properties (bricks and mortar dwellings) in close proximity to the site. The nearest properties are in excess of 300m in a southerly direction from the residential portion of the site. This distance is sufficient to prevent any impact on the residential amenity of the occupiers.

5.8.2 The amenity of the occupiers of the other gypsy sites in the vicinity would not be significantly harmed by the proposal to change the name or substituting the touring caravan for a mobile.

6. CONCLUSION

6.1 The site is located within the countryside and the Southern Anti-Coalescence Belt, however, gypsy sites can be acceptable in the countryside. It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for Traveller Sites.

6.2 The visual impact of the increase of domestic paraphernalia on the site is worse from short range views at the access and from the nearby footpath. However, these views were considered acceptable by the previous Planning Inspector and

the introduction of additional landscaping following that permission has further screened the site.

- 6.3 There is a need to provide gypsy accommodation within the Borough and the revised GTAA published in 2012 indicates that there is a pitch requirement of 105 pitches up until 2016. I consider that this is an acceptable site for an additional household and whilst granting permission would go toward meeting the identified need I do not give the need for gypsy accommodation much weight in the consideration of this case as the proposal is acceptable in planning terms.
- 6.4 There are no other significant planning issues that would warrant refusal of the application.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. No more than two caravans shall be placed on the land at any one time and these shall be sited only within the area shown hatched on the plan attached to this decision notice;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

2. The use hereby permitted shall be carried on, and the caravans occupied, only by Mr Chris Draper and/or Mrs Diane Draper and/or Mr Jimmy Draper (and any dependents) and shall be for a limited period, being the period during which the premises are under control of Mr Chris Draper, Mrs Diane Draper or Mr Jimmy Draper;

Reason: In order to meet the identified need of the applicant in accordance with guidance contained in Planning Policy for Traveller Sites.

3. When the premises cease to be under the control of Mr Chris Draper and/or Mrs Diane Draper and/or Mr Jimmy Draper the use hereby permitted shall cease and any caravan and all materials and equipment brought on to the premises in connection with the use shall be removed, including any hardstanding or cesspool, and the land restored to its former condition prior to the commencement of the use;

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in

accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

4. This permission does not authorise the use of the land as a caravan site by any other persons other than gypsies, as defined in Annex 1 of Planning Policy for traveller sites;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

5. No commercial activity or open storage shall take place on the site;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

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



Appeal Decision

Inquiry held on 19 & 20 October 2005 and site visit undertaken on 19 October 2005

by **R J Tamplin BA(Hons) MRTPI Dip Cons Studies**

an Inspector appointed by the First Secretary of State

D. J. Tamplin POST ROOM T.R. 18 NOV 2005	The Planning Inspectorate 4/09 Kite Wing Temple Quay House 2 The Square Temple Quay Bristol BS1 6PN ☎ 0117 372 6372 e-mail: enquiries@planning-inspectorate.gsi.gov.uk
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Date

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Appeal Ref: APP/U2235/A/05/1178307

Primrose Paddock, Heath Farleigh Lane, Loose, Maidstone, Kent, ME15 0QE

- The appeal is under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Draper against the decision of Maidstone Borough Council.
- The application Ref MA/04/2010, dated 8 September 2004, was refused by notice dated 1 February 2005.
- The development proposed is change of use to gypsy site for one mobile home and one touring caravan.

Summary of Decision: The appeal is allowed subject to conditions.

Procedural Matters

1. The appellants agreed that the address of the appeal site on the application form is partly incorrect and should read 'Primrose Paddock, Stockett Lane, Coxheath, Maidstone, Kent, ME15 0QE'. I shall use the correct address throughout this decision.

Main Issues

2. It was agreed that there are three main issues before me in this appeal, these being:
 - (a) The effect of the development on the character and appearance of the countryside around Stockett Lane;
 - (b) The effect of traffic generated by the development on the safety of users of Stockett Lane; and
 - (c) Whether any harm arising from the above issues is outweighed by material considerations, and in particular the claimed gypsy status of the appellants, their personal circumstances and any need for gypsy sites in Maidstone Borough.

Planning Policy

3. The statutory development plan for this area includes the adopted Kent Structure Plan 1996 (the SP) and the adopted Maidstone Borough-Wide Local Plan 2000 (the LP). The Council referred to SP Policies S1, S2, ENV1, H8, RS1 and RS5 and LP Policies ENV28, ENV32, T22 and H36 and the appellants accepted that these policies are applicable for the purpose of my determination. Reference was also made to the policies of the emerging Kent and Medway Structure Plan: Deposit Plan of September 2003 but it was agreed that less weight should be given to those policies at this stage in the plan's progress towards adoption.

The Appeal Site and its Surroundings

4. The appeal site lies in open undulating countryside about 250m north of Coxheath, a substantial village some 5km south of Maidstone. It consists of an almost rectangular parcel

of land with a depth of around 120m and a frontage of roughly 50m to the eastern side of Stockett Lane. The front two-thirds of the land is divided into two paddocks in which a few horses and ponies were grazing at the time of the inspection. A track leads along the northern side of these paddocks to the rearmost third of the site which is occupied by about twenty cherry trees in two rows. There are fruit orchards to the east and south, although towards Stockett Lane these thin out, allowing views of the upper storeys of houses on the northern edge of Coxheath, along Forstal Lane. The northern boundary of the appeal site consists of a row of poplar trees about 10m high; the western, roadside, boundary is a blackthorn hedge about 3-4m high and this is a feature of the lane to both north and south of the site.

5. Stockett Lane is a single carriageway road with no verge or footway for most of the distance from Coxheath to the site. The carriageway has a width of about 5m and there is no local speed limit or street lighting beyond the Forstal Lane junction at the village edge. The road dips to the north and rises slightly to the south when seen from the access to the appeal site. Immediately north of this access a triangular plot is separated from the site by a public footpath which crosses the poplar hedge by a stile and then continues northeast across a paddock to orchards and farm buildings in that direction. Beyond the paddock the roof of a caravan is just visible above a boundary hedge. Opposite the site the land is more open and there is an access to a group of farm buildings. About 150m south-west of the site is the junction to a minor road, Workhouse Lane, which leads past a small wood in the direction of Dean Street and East Farleigh.

Inspector's Reasons

Effect on the Character and Appearance of the Countryside

6. My site visit showed that a mobile home and touring caravan, if placed on the rear of the site as the appellants propose, would be visible from the entrance on Stockett Lane, probably throughout the year. The adjacent cherry trees give only limited screening during the summer months and in winter would afford little or none. But such a view would be fleeting as passers-by went past the gap in the tall roadside hedge. Moreover, I disagree with the Council that the development would be seen from Workhouse Lane, where a combination of the landform, wood and hedges along Stockett Lane would block views at all seasons. The effect of the landform on views in this area is much more subtle than is at first apparent, with the upper floors of houses in Coxheath being plain when standing near the entrance to the site, but becoming completely hidden as one walks to the rear. I accept that from the public footpath at the site entrance any development on the land would be seen, but again I believe those views would be short-lived and limited by the poplar hedge north of the stile and shortly thereafter would be entirely lost. This would be due to the heavily planted orchards in the fields to the north, east and south, which trees would also obscure visibility of the caravans from the dwellings in Forstal Lane.
7. There is no doubt that the site lies in the countryside as a matter of fact and as defined by LP Policy ENV28. The aim of that policy is to prevent harm to the character and appearance of the area or the amenities of surrounding occupiers. In this case the character of the countryside north of Coxheath is of intensive fruit growing where, as Mr Draper explained, picking and management using itinerant labour is still a feature of the rural economy. I saw that this results in the fruit fields being intensively planted with fruit trees which are protected by tall boundary hedges providing windbreaks and shelter belts, giving

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a very characteristic appearance. Furthermore the use of caravans for temporary housing of the labour appears to be a common feature in the vicinity. However, the dense planting and shelter largely screens these features so that, for example, I was unable to see the unauthorised caravans on nearby land, to which the Council referred, despite their apparent proximity. Similarly the caravans on land a short distance north of the appeal site are all but invisible for similar reasons.

8. In these circumstances I consider that the limited visibility of the proposed development would be entirely consistent with the character and appearance of the local landscape. So too would any increase in its visibility during the winter, because I would expect that other caravans in the vicinity would also become more apparent at those times. In reaching this conclusion I draw a distinction between unauthorised caravans, which have no justification for being in the landscape, and those which are lawful, for whatever reason, and which hence are part of the local rural scene. I have also borne in mind that much of the screening is on land outside the appellants' control. However, the hedge alongside Stockett Lane is said to be within their land, as is the poplar hedge on the northern boundary. Conditions could therefore be imposed requiring these to be reinforced and the eastern and southern boundaries planted with hedges and such planting would appear entirely consistent with the character and appearance of the local landscape.
9. Accordingly I conclude that the appeal proposals would not undermine the aims of LP Policy ENV28, provided they fall within one of the exceptions afforded by other Plan policies. That is a matter for consideration under the third main issue of this case. For similar reasons the development would also not conflict with the aims of SP Policies S2 and ENV1.
10. The Council also argued that the development would be contrary to the aims of LP Policy ENV32, which defines an anti-coalescence belt to the south of Maidstone in order to keep separate the settlements in that area and prevent them coalescing with the town itself. But it seems to me that the appeal proposals neither significantly extend the built up area of Coxheath nor consolidate an existing area of development as a result of infilling. On this part of Stockett Lane there is no development on its eastern side between the appeal site and the edge of the village, a distance of some 250m. To the north the next development is the authorised caravan site some 60m distant, beyond which there appears to be no development for some considerable way. I therefore do not consider that caravans sited here could in any reasonable sense of the term be described as an infilling development, particularly as they would be set back some 100m or more from the lane. Nor would they undermine the underlying aim of the policy because they would be seen as being related to the particular character of the local countryside rather than being a part of urban development. Therefore I conclude that the appeal proposals would not conflict with the aims of LP Policy ENV32.

The Effects on Highway Safety

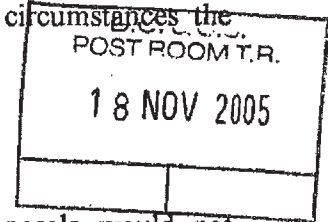
11. The highway authority undertook a brief random speed check at the appeal site from which they estimate the indicative vehicle speeds in the vicinity to be about 30-35mph (48-56 kph). Using Table A on page 58 of *"Places, Streets and Movements"* this speed gives rise to a recommended minimum visibility at the access to the appeal site of 90m in each direction from a point 2m back from the carriageway edge. Although the visibility currently available at this point was not measured at the site inspection, the appellants did not

- challenge the Council's measurements of 32m to the south and 10m to the north, and my observations lead me to agree. Consequently the available visibility in both directions is substantially less than the recommended minimum, that to the north being particularly limited.
12. The guidance in "*Places, Streets and Movements*" needs to be assessed in the circumstances of each case. In this instance the Council argued that Stockett Lane is a busy country road used by traffic from the wider area going to and from Maidstone. Though the site inspection, carried out around 1600hrs on a Wednesday, did not suggest that flows were heavy in the afternoon peak, there is no evidence to dispute the Council's claim. In the light of the minimal visibility, limited road width and absence of verges or footways I consider that at present traffic emerging from this access is a potential danger to itself and other users of Stockett Lane. The appellants said that this access has historically been used by many farm vehicles so that any traffic generated by their proposals would be substantially less and thus would reduce rather than increase the hazard caused by use of the access. But the formation of a separate planning unit when this land was acquired by the appellants in 2002 means that the true comparison today is the traffic generated by the current use of this land, as a small area of grazing, compared to residential and grazing use. This they acknowledged would result in increased turning movements.
 13. Nevertheless, the appellants have offered to improve the visibility at the access by forming a splay in both directions. The highway witness agreed that such a feature to the south, using land within their control, would increase the visibility for and of emerging drivers to about 46m. To the north of the access the appellants own none of the roadside land but they provided a letter from the landowner of the triangular parcel beyond the public footpath stating that he would allow them to reduce the hedge in that direction to a level enabling good visibility. My observations on site showed that this section of land projects slightly into the general alignment of Stockett Lane, so that if this section of hedge were reduced to the 0.9m height required by the highway authority, this would permit vision of more than 100m to the north. Though no undertaking under Section 106 of the Town and Country Planning Act 1990 was submitted in support of the letter, I consider that, in the light of the judgement in *British Railways Board v SSE & LB Hounslow [1994] JPL32*, a negative condition could be imposed preventing implementation of permission before the height of the hedge is reduced.
 14. In those circumstances there would be vision for and of emerging drivers of 46m to the south and in excess of 100m to the north. My observations of driver behaviour in Stockett Lane is that not only do many of them drive at well below what is legally possible on an unrestricted road, but that they usually show awareness of oncoming vehicles by slowing and pulling in to allow them to pass using field entrances or wider stretches of the lane. Such a brief observation does not lead to a conclusion that all drivers behave in such a manner, and the evidence of local residents is that some speeding does occur along parts of Stockett Lane. But no recorded accidents have occurred on this stretch of road, and traffic approaching from the south would tend to be on the far side of the carriageway, albeit that is very limited. Therefore I conclude that the harm arising from additional turning traffic generated by the appeal proposals would be overcome by the provision of visibility splays to north and south as proposed.
 15. Hence, subject to the imposition of a condition requiring such splays (without which permission should be refused) I conclude that no serious harm to the safety of road users

would arise from the traffic generated by the development. In those circumstances the appeal proposals would not conflict with the aims of LP Policy T22.

Other Material Considerations

Local Plan Policy H36



16. In the light of my conclusions in paragraph 9 above, that the proposals would not undermine the aims of LP Policy ENV28 provided they fell within one of the exceptions to countryside policy indicated by policies elsewhere in that plan, I now turn to examine the claimed exception. This is through LP Policy H36 which concerns accommodation for gypsies. The policy has three criteria which have to be satisfied before planning permission may be granted, and for simplicity and ease of understanding I have not considered them in numerical order.
17. Criterion (2), that the site should be satisfactorily screened by natural features, was interpreted by the Council as meaning that this should be the state of the site at the time of the decision. However, such an interpretation fails to recognise that an unacceptably visible site may be able to be made acceptable by the imposition of suitable planting conditions. Nor is it necessarily the case that, if the appeal site were to be screened, that screening would in itself appear unnatural and out of character with the surroundings, so that the development would fail the test of other countryside policies including ENV28. That would depend on the form of the landscaping proposals which would be subject to negotiation with and approval by the Council. I have already concluded that, given the character and appearance of the countryside around Coxheath, the limited visibility of the development would cause no serious harm to the landscape, but that in any event even that harm could be overcome by imposing a condition requiring screen planting, that could be designed to be appropriate to this area. I thus conclude that the proposals comply with criterion (2) of Policy H36.
18. Criterion (3) seeks to ensure that the development of the site would not result in an undue concentration of such developments which would adversely affect the character or amenity of the countryside or an area. I found the Council's interpretation of this part of the policy difficult to understand in that they appeared to say that the term 'such developments' means any caravans in the vicinity, whatever their purpose and whether or not they are authorised. But Policy H36 is purely a gypsy policy, and though I accept that gypsies live or seek to live mainly in caravans, those vans are distinguished from all other caravans by the specific identity of the occupiers, just as agricultural workers' dwellings are distinguished from other dwellings in the countryside. Hence I have interpreted the term 'such developments' as meaning other gypsy caravans.
19. In this case there is only one other gypsy caravan site in the vicinity, on the field a short distance to the north of the appeal site. Though this contains several caravans, I understand they all belong to members of one family. Such an arrangement is common in the gypsy community so that I consider these caravans as a group forming a single family unit and not as multiple caravans occupied by unrelated individuals. That being so I do not consider that a second gypsy caravan site, even as close as 60m to the first, could be considered an undue concentration of such developments. To accept that argument would mean that only isolated single family groups of gypsies would ever be permissible under this part of the policy; it would also prevent any new local authority sites being created or existing sites being enlarged. Because that would be irrational and unreasonable I hold to my interpretation of

the term 'undue concentration' and to my conclusion that this would not arise were permission to be granted for the appeal proposals.

20. Because I have already concluded in the first main issue that permission would not adversely affect the character of the countryside, and because I have no evidence that it would affect its amenity, I further conclude that the development complies with criterion (3) of Policy H36.

The Appellants' Gypsy Status and Personal Circumstances

21. Finally I turn to criterion (1) of LP Policy H36, which requires that the resident of a site permitted under this policy has a nomadic way of life and travels for the purpose of making a livelihood. The Council say that they fully accept that the appellants are both ethnic gypsies; what they dispute is that either of them comes within the requirements of this policy criterion. They argue that they have granted several recent permissions for sites under this policy so that it is not contrary to Government advice under Circular 1/94, "Gypsy Sites and Planning", and they have followed the advice of letters from the former DETR in 1998 and 1999 in seeking to make provision for gypsy sites. They emphasise that they are now embarking on a Housing Needs Assessment for the Borough, including an assessment of the needs of gypsies for sites and for housing provision, the results of which are expected shortly. But in their view the position in this case remains that the appellants do not fall within the definition of gypsy in the policy, so that there is no justification for permission.
22. The supporting text to LP Policy H36 refers to the definition of gypsies in the Caravan Sites Act 1968, that it means persons of nomadic habit of life, whatever their race or origin, but excluding travelling showpeople. The policy criterion refines that definition by reference to travel for the purpose of making a livelihood and, though the reason for this refinement is not stated in the supporting text, I understand it arises from case law. That is important because, while the definition in the policy has remained fixed since it was adopted in December 2000, case law relating to gypsy status has continued to evolve. As the decision maker in this appeal it is my duty not only to apply this development plan policy, but to do so taking full account of how the courts have interpreted the law surrounding the matter of gypsy status.
23. The background facts in this case are that the appellants have been married for some thirty years and for many years travelled around mid-Kent in a caravan, moving from farm to farm, with Mr Draper doing work such as fruit and hop picking and hop tying. However, farming changed, orchards and hopyards were grubbed up and farmers were increasingly reluctant to allow the larger caravans on their land, fearing the occupiers would not leave as those caravans were their homes. Because it became difficult to travel in their traditional way the Drapers moved onto the local authority site at Stilebridge near Marden in about 1991. They did so reluctantly as they had never lived on such a site before, but they could find no alternative. They used Stilebridge as a base from which Mr Draper continued to travel around the local area doing general farm work, fruit and hop picking and tying plus some house painting and logging in the winter. But they could not get used to the site, thought it dirty and run down, and later found themselves in the midst of rival groups who were constantly feuding and fighting. Because they were so concerned at the effects of all this on their children they applied to the Council for an alternative site but were offered only housing accommodation. By 1998 they were so desperate to leave Stilebridge that they accepted the offer of a local authority house in Maidstone.

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24. At first Mr Draper continued to do the same farm work in the countryside around the town but almost immediately Mrs Draper began to experience severe physical symptoms such as joint, stomach and back pains and sleeplessness. As these became increasingly debilitating she sought medical help and was prescribed a great variety of drugs, many of which she still uses, but to little effect. She is now seeing her own GP twice a week and has been referred by him to the Blackthorn Trust, a specialist practice dealing with apparently incurable and inexplicable symptoms. Their view is that Mrs Draper is genuinely suffering, is perfectly sane and sensible, and that her deep aversion to living in a house is very likely to be leading to these symptoms. The only relief she obtains is when spending nights in a touring caravan at her mother's site, near Robertsbridge in East Sussex.
25. When his wife is suffering very badly and is almost immobile, which may be for periods of up to five weeks at a time, Mr Draper has to stay at home to look after her. Therefore he cannot commit to being available when farmers need him for work in the orchards and hopyards and so he has had to develop alternative sources of income. He now helps a horse owner attend traditional fairs such as Stow and Appleby to give advice on buying and selling and to act on her behalf in what is an essentially male-dominated situation. This occurs about five or six times a year, each event lasts a day or two, and he is paid about £25 each time plus board, lodging and other expenses. He also carves traditional picture frames, takes them to the fairs and sells them to other gypsies, though recently he has exhausted this market. A third source of income is what Mr Draper described as street work, that is, with others, gardening, painting the exterior of houses and doing general handyman jobs. Most recently he has started his own business in the same line and he travels around the Maidstone, Tonbridge and Malling areas putting cards through doors and then following up these leads to see if any work is required.
26. The judgement in *Hearne v National Assembly of Wales & Carmarthenshire CC*, [1999] QBENF 1999/0648/C, held that the relevant time for assessing the gypsy status of an appellant is at the time the matter is being considered, in this case at the inquiry. It was also held that the guidance in Circular 1/94 applies to gypsies who combine a nomadic life and a permanent site or base to which they return from time to time. Where appellants have retreated to their permanent base, the question for the decision-maker in a planning case is essentially one of fact as to whether, in doing so, they have abandoned their nomadic way of life. In such circumstances, their intention may be relevant to that question of fact. The judgement in *Wrexham CB v National Assembly of Wales and Berry*, [2003] EWCA Civ 835, referred to the *Hearne* and other judgements and set out in paragraph 57 a series of propositions in law to guide decision makers where the status of an appellant claiming to be a gypsy is at issue.
27. In this case there is no dispute that, at the time of the inquiry, the appellants were not, as a matter of fact, actually living a travelling life. It is thus a matter of fact and degree whether this current absence of travelling means that they no longer follow a nomadic habit of life. The circumstances are that both of the appellants are from an ethnic gypsy background and for many years did pursue a travelling life and this was only curtailed to a permanent base in about 1991 because they could no longer find regular farm accommodation due to changes in agriculture and in the attitude of farmers to large caravans. Nevertheless, Mr Draper continued to carry out the same farm work as he had always done, together with house painting and logging, and he travelled in the same area as before because he enjoyed this work. It was also evident that Mr Draper and his wife are a very close and private couple who, with their immediate family, are largely self-sufficient and happy to depend on

their own resources. Hence they were entirely at ease with a nomadic existence and I believe that he and his wife would have continued to live as they had before 1991 if circumstances beyond their control had not forced them to move onto a local authority gypsy site.

28. Whether they travelled seasonally while on that site was not the subject of evidence. However, irrespective of that, it seems to me that what was important to whether or not they can be said to have retained their status at that time is that they were reluctant to be on a permanent base at all and that Mr Draper continued to work in the same way and the same area as before. They had not retired or retreated to that site because they never felt settled there and they had not given up their traditional means of making a living, that is travelling to work in fruit and hop farms plus some painting and logging. I therefore conclude, as a matter of fact and degree, that up to the time they left the Stilebridge gypsy site, Mr and Mrs Draper retained their gypsy status.
29. Their move to a house in Maidstone was, I am satisfied, not made because the appellants wanted to live in bricks and mortar, but because at the time they saw it as the only way they could move from a rundown site where there was physical danger to their children. Thus it was again a decision made because they were forced into it by circumstances outside their control. Nonetheless Mr Draper attempted to continue working as he had before, but further extraneous circumstances, those of his wife's illness, forced a change and led to the loss of farm work and any other employment where he had to commit to regular attendance. His current sources of income are thus very much small scale, short term and depend on his own initiative. His development of the three strands of work noted above reflect his expressed view that he has to make money as best he can; effectively Mr Draper is doing what gypsies have usually had to do and make a living by relying on his wits.
30. His wife's symptoms are accepted, both by her own GP and a specialist doctor, to be genuine, longstanding and probably caused by her aversion to living in a house. Both appellants firmly believe that Mrs Draper will only find relief once she can live in a caravan and the evidence that she finds some relief when staying in her mother's touring van supports this view. The appeal proposals would therefore enable Mr Draper to resume farm work as well as carrying out his painting and gardening business. It is a measure of their desperation to move to a caravan site of their own that on their unchallenged evidence they have spent all their limited savings in acquiring the appeal site in order to do so. Though they were criticised by the Council for failing to approach them before buying the land, Mr and Mrs Draper have acted in a completely responsible manner. They have refused to move a caravan onto their land before they have obtained planning permission and have pursued their aim through the proper channels, despite the harm and personal upset that staying in bricks and mortar is causing them, especially Mrs Draper. As a result of their responsible and honest approach to this matter I attach great weight to Mr Draper's evidence that he intends to resume his former travelling and working pattern should planning permission be granted.
31. In all these circumstances I conclude as a matter of fact and degree that, since they moved into their house at Maidstone in about 1998, the Drapers no longer pursue their traditional travelling way of life because of the circumstances of Mrs Draper's illness and the need for her husband's frequent but irregular attendance to care for her. I am satisfied that Mrs Draper's aversion to living in a house is genuine and arises from her background and way of life as a gypsy and that it is probable her symptoms will disappear only when she is able

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to live in a caravan. Because I accept that it is not possible for Mr Draper to continue his travelling way of life in these circumstances, and because I attach great weight to his stated intention to resume his former travelling way of life should permission be granted, I conclude as a matter of fact that he has not abandoned his nomadic habit of life at this time. Instead, he has put it into abeyance. Should permission be granted in this case I believe, on the medical evidence and the stated intentions of the Drapers which I believe were honestly made, that within a short time of their settling into a caravan on this site that Mrs Draper's condition is likely to ease, if not disappear, so that Mr Draper could, and in my view would, resume his former travelling lifestyle. That being so, I conclude that there is a realistically realisable prospect of him resuming his former nomadic habit of life.

32. Therefore, bearing in mind the *Wrexham* judgement, I further conclude that Mr Draper has retained his nomadic way of life, even though he is not travelling for the purpose of making a livelihood for the time being and that it has been a considerable time since he lived in that way. Accordingly Mr Draper falls within the definition of a gypsy for the purposes of the statute as interpreted by the courts. In the light of this conclusion it also follows that he complies with criterion (1) of LP Policy H36. This means that all three policy criteria are satisfied so that in turn this establishes an exception within point (5) of LP Policy ENV28.

The Need for Gypsy Sites

33. The appellants also argued that there is an unmet need for additional gypsy sites in Kent generally and in the Borough in particular. The Council accept that this is so but say that they are now carrying out a housing needs appraisal, the results of which will shortly be available, and that they have granted permissions for several gypsy caravans in the past 12 months. I recognise that such positive action is to be welcomed but it does not materially alter the situation as it stands at the time of my determination. This is that there is an accepted substantial unmet need for additional gypsy accommodation in this area, but that its extent and nature remain unknown. This situation therefore adds considerable weight to the appellants' case.

Human Rights

34. I have also taken into account the human rights arguments advanced by the appellants in the event that I was minded not to grant permission on the planning merits. However, because my conclusions on the main issues in this case all point to the grant of permission, I do not need to consider those submissions.

Conclusions

35. From the above it follows that my overall conclusions are that, providing appropriate conditions were imposed, the appeal proposals would cause no serious harm to the character and appearance of the local countryside nor to the safety of the users of this part of Stockett Lane. Furthermore, because Mr Draper retains his gypsy status and has a realistically realisable intention to resume his nomadic way of life, these proposals fall within LP Policy H36 and are thus acceptable as an exception to LP Policy ENV28. I have taken into account all the other arguments advanced by the Council, by Coxheath Parish Council and by other objectors, including that this is not a sustainable location for a residential use.
36. I walked from the appeal site to the edge of Coxheath and found the walk relatively easy and not obviously dangerous. I also noted the location of services and facilities in the

village, all of which appear to lie within about 1km of the site. This is well within the 2km distance referred to in paragraph 75 of PPG13, "Transport", as offering the greatest potential to replace car trips. The evidence is that Mrs Draper does not drive and that she already uses the shops and other local facilities, so that I would expect her to continue to do so if she lived here. Therefore I consider that the appellants would not find the distance to services excessive or difficult, and that permission would be unlikely to result in significant numbers of unnecessary additional vehicle journeys.

37. Accordingly neither that argument, nor any other argument, is of such weight as to affect my final conclusion that planning permission ought to be granted for the appeal proposals. I shall therefore allow the appeal and grant permission subject to conditions.
38. I have considered the conditions suggested by the Council in the light of the appellants' comments and the advice of Circular 11/95, "The use of conditions in planning permissions". Because the appellants require only one caravan to enable them to go travelling and one to remain on site as their accommodation base, and to minimise the effect of the development on the appearance of the countryside, suggested condition (1) limiting the number of caravans to two is necessary. I agree with the appellants that because the term 'mobile home' is nowhere defined in planning legislation, the condition should not refer to such a type. But equally a touring caravan is not defined and all caravans are capable of being moved around by their very nature. In the circumstances no description of the type of caravan will be included because it would be imprecise and unenforceable; it will be for the appellants to determine the nature of the caravans brought on site, subject to the maximum number. However, it would be appropriate to require the caravans to be sited as proposed, to the rear of the site, in order to minimise their effect on the landscape.
39. In the light of my consideration of this appeal, which has turned substantially on the status of the appellants themselves, as opposed to the needs of gypsies in general, suggested condition (3) limiting occupation personally to Mr and Mrs Draper would be appropriate and necessary to prevent use by others. In suggested condition (4) the use of the term 'under the control of the appellants' rather than 'occupied' would avoid uncertainty when the appellants travel for any length of time and the site remains unoccupied. At the same time this would ensure that if the appellants were to sell or otherwise lose control of the site, for whatever reason, the residential use would cease and its material features would be removed, thus protecting the appearance of the countryside. Suggested condition (2) is necessary in the interests of highway safety and to protect the appearance of the countryside, subject to minor amendment to ensure that the discretion of the First Secretary of State on a subsequent appeal is not fettered.
40. The form of suggested conditions (5) and (6) concerning landscaping and its implementation is necessary and reasonable in the context of this case, and the conditions themselves are necessary to protect the character and appearance of the countryside. Similarly, suggested condition (7), to prevent commercial activity and open storage, is necessary to protect the appearance and amenity of the countryside. All the conditions satisfy the other tests of Circular 11/95.

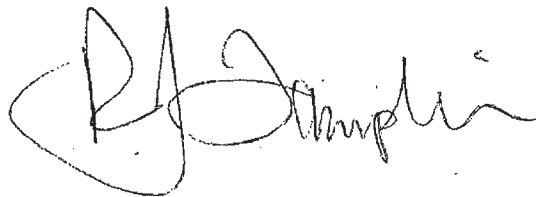
Formal Decision

41. For the above reasons, and in exercise of the powers transferred to me, I hereby allow the appeal and grant planning permission for the change of use to a gypsy site for one mobile home and one touring caravan at Primrose Paddock, Stockett Lane, Coxheath, Maidstone,

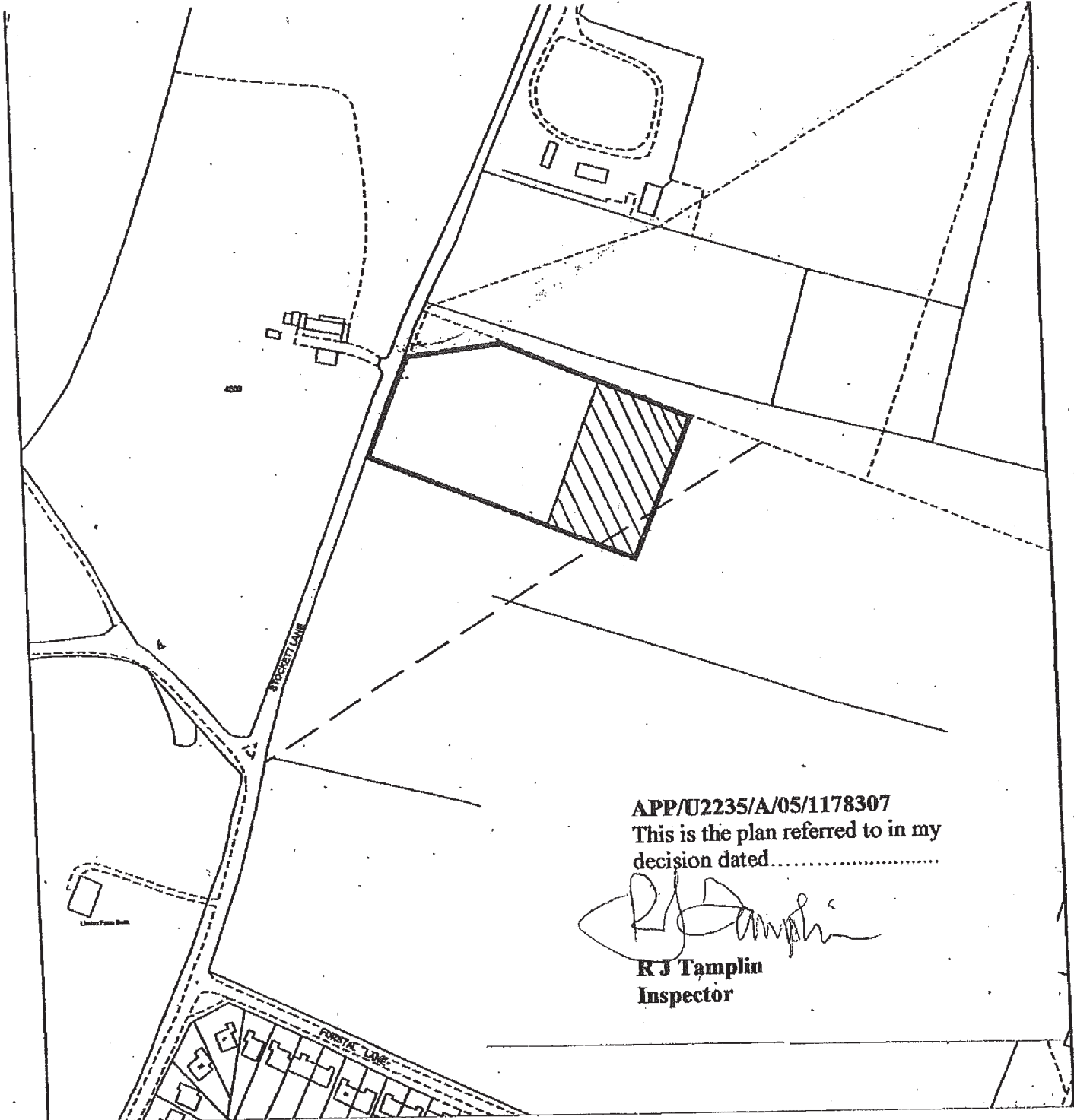
18 NOV 2005

Kent, ME15 0QE, as set out in the application (Ref MA/04/2010) dated 8 September 2004 and the plans submitted therewith, and subject also to the following conditions:

1. No more than two caravans shall be placed on the land at any one time and these shall be sited only within the area shown hatched on the plan attached to this decision.
2. The use hereby permitted shall be carried on, and the caravans occupied, only by Mr Chris Draper and/or Mrs Diane Draper, and shall be for a limited period, being the period during which the premises are under the control of Mr Chris Draper and Mrs Diane Draper, or the surviving partner in the event of the death of either.
3. When the premises cease to be under the control of Mr Chris Draper and/or Mrs Diane Draper the use hereby permitted shall cease and any caravan and all materials and equipment brought on to the premises in connection with the use shall be removed, including any hardstanding or cesspool, and the land restored to its condition prior to the commencement of the use.
4. No caravan shall be placed on the land before full details of a scheme for the improvement of visibility at the access to the site have been submitted to, and approved by, the local planning authority (or in default of their approval, by the First Secretary of State on appeal) and the scheme has been fully implemented in accordance with those details.
5. Full details of both hard and soft landscaping shall be submitted to the local planning authority within one month of the date of this permission, including details of all hard surfaces and planting and any existing trees and shrubs to be retained.
6. All planting, seeding or turfing and works comprised in the landscaping of the development shall be carried out in the first planting season following approval of the details by the local planning authority (or in default of their approval, by the First Secretary of State on appeal) and any tree or shrub which within a period of five years from approval of the scheme dies, is removed, or becomes seriously damaged or diseased, shall be replaced in the following planting season with another of similar size and species, unless otherwise agreed in writing by the local planning authority.
7. No commercial activity or open storage shall take place on the site.



Inspector



APP/U2235/A/05/1178307

This is the plan referred to in my decision dated.....

R J Tamplin
Inspector

- Document 9 Mr and Mrs Draper's proofs and appendices
- Document 10 Statement by Mr Draper
- Document 11 Letter from adjacent landowner to Mr Draper relating to the roadside hedge, 12 October 2005 (Put in by Mr Draper)
- Document 12 Mr Brown's proof and appendices
- Document 13 Mr Cottle's skeleton submissions and judgements referred to in closing
- Document 14 Mr Hughes' proof

PLANS

- Plan A Application plans, OS Based, scale 1/2500 and unscaled
- Plan B Extract from the Maidstone Borough-Wide Local Plan Proposals Map, December 2000 (Put in by Ms Marks)

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NOTICE
ALL HORSES ARE
MICROCHIPPED
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11.04.2012

Agenda Item 16

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0116

GRID REF: TQ7654

188 LOOSE ROAD,
MAIDSTONE.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/0116 Date: 25 January 2012 Received: 26 January 2012

APPLICANT: Kwik Fit Properties Limited

LOCATION: 188, LOOSE ROAD, MAIDSTONE, KENT, ME15 7UF

PARISH: Maidstone

PROPOSAL: An application for advertisement consent for the installation of 1No. internally illuminated fascia sign, 1No. non-illuminated fascia sign, 1No. internally illuminated wall mounted sign, 2No. non-illuminated wall mounted sign and 1No. internally illuminated totem advertisement as shown on the site location plan and 6No. drawing numbers Kwik-Fit\Maidstone\Proposal\01 received 25th January 2012.

AGENDA DATE: 19th April 2012

CASE OFFICER: Catherine Slade

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

- it has been called in to Planning Committee by Councillor Chittenden.
- a petition with more than 100 signatures has been received.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV8
- South East Plan 2009: CC1, CC6, BE1
- Government Policy: National Planning Policy Framework 2012, Circular 03/2007 Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Other: Loose Road Character Area Assessment Supplementary Planning Document 2008, Institute of Lighting Engineers Technical Report No3 Brightness of Illuminated Advertisements

2. HISTORY

2.1 The site has an extensive development control history, the most recent relevant parts of which are summarised below.

- MA/04/1743 - Change of use of the premises to allow it to be used as an MOT testing station for motorcycles class I and class II - APPROVED WITH CONDITIONS
- MA/04/0528 - An application for advertisement consent for the installation of 2 no. internally illuminated fascia signs and 1 no. internally illuminated totem sign - APPROVED WITH CONDITIONS
- MA/02/1871 - An application for advertisement consent for an internally illuminated pole-mounted forecourt sign - APPROVED WITH CONDITIONS
- MA/02/1553 - An application to vary condition 07 of MA/02/1052 to allow vehicles weighing up to 17.5 tonnes to enter the site - APPROVED WITH CONDITIONS
- MA/02/1052 - Change of use from Sui Generis motor showroom and workshop to use class A1 with new shop front - APPROVED WITH CONDITIONS
- MA/02/1005 - An application for advertisement consent for internally illuminated pole-mounted forecourt sign, internally illuminated fascia sign, a non-illuminated rear delivery entrance sign and non illuminated opening hours sign on the front elevation - SPLIT DECISION

2.2 Planning permission was granted in 2002 (together with other related consents) for the change of use of the building to an A1 retail unit, however this permission has not been implemented. The more recent applications from 2004 for the change of use of part of the building for MOT-ing and advertisement consent (including the introduction of illuminated fascia signs to the front (east) and side (north) elevations and an illuminated totem on the forecourt) have been implemented. The site has historically been used as a petrol station and motor vehicle garage and salesroom.

3. CONSULTATIONS

3.1 KENT COUNTY COUNCIL HIGHWAY SERVICES OFFICER: Raises no objection to the proposal subject to a condition requiring the maximum luminance of the advertisements to be in accordance with ILE guidance.

4. REPRESENTATIONS

4.1 COUNCILLOR CHITTENDEN: has concerns in relation to the proposed advertisements, relating to the activities of the proposed occupiers of the premises, and the potential implications for car parking, access and disturbance to local residents.

4.2 Loose Residents Association: raised concerns relating to highway safety and residential amenity.

4.3 A petition with over 100 signatories was received with the following text:
"RSR Car wheels and exhaust are opening a MOT centre 188 Loose Road Maidstone.

If you feel that this is a further danger to pedestrians please sign to show your disapproval.

If you feel it will affect your business or effect where you live please sign to show your disapproval."

4.4 NEIGHBOURS: Two representations were received which raised the following concerns:

- Harm to residential amenity as a result of the introduction of illuminated advertisements to the north elevation of the site.
- Highway safety, parking and congestion issues; noise and fume disturbance; and harm to local businesses as a result of the use of the premises as an exhaust, tyre and MOT centre.

4.5 Concern was also raised in respect of procedural issues relating to the planning permission granted under MA/04/1743 for the use of the land as an MOT testing centre.

5. CONSIDERATIONS

5.1 Site and Surroundings

5.1.1 The site is located on the south west of the junction between the A229 Loose Road and North View, an unclassified no through road, and approximately 80m to the north of the traffic light controlled junction formed by Loose Road, Sutton Road (the A274) and Cranborne Avenue.

5.1.2 The site is located in the north west of the Loose Road Area Character Assessment within the defined urban boundary of Maidstone, but has no other environmental or economic designations in the Maidstone Borough-Wide Local Plan 2000.

5.1.3 The site comprises a single storey mid twentieth century warehouse type building of no particular architectural or historic merit, which is wholly in

commercial use. Off road parking is provided on a forecourt to the front (east) of the building, and vehicular access/egress is gained from both Loose Road and North View.

5.1.4 The southern elevation of the building is located immediately adjacent to the northern end of a terrace of four two storey buildings forming a "parade" which are in use for Class A purposes at ground floor level with residential accommodation above. Residential properties are located to the north, west and east of the site.

5.2 **Proposal**

5.2.1 Advertisement consent is sought for six advertisements; two to the front (east) elevation, two to the side (north) elevation; and a totem located on the forecourt adjacent to the Loose Road. The details of the advertisements are as follows:

5.2.2 Fascia sign to east elevation (sign 1 in application documentation):
The advertisement occupies the central part of the site frontage formed by the gable above the customer entrance, and would have a height to its base of 4.2m. The maximum height of the lettering would be 79cm, and would read "Kwik Fit". The sign is proposed to have static internal illumination with an illuminance level of 800cd/m.

5.2.3 Fascia sign to east elevation (sign 2 in application documentation):
This advertisement is located below "sign 1" on the site frontage, and would have a height to its base of 2.8m. The maximum height of the lettering would be 30cm, and it would read "TYRES EXHAUSTS BRAKES MOT SERVICING". This sign would have no illumination.

5.2.4 Totem sign on forecourt in east of site (sign 4 in application documentation):
The totem structure would have a height of 4.5m and a height to the base of the advertisement of 3.6m. The advertisement be double sided, each face having an area of 1.21m² (a height and width of 1.1m). The maximum height of the lettering would be 64cm and it would read "Kwik Fit". The sign is proposed to have static internal illumination with an illuminance level of 800cd/m.

5.2.5 Fascia sign to north elevation (sign 5 in application documentation):
The advertisement would be located on the north elevation of the building fronting North View, and would have a height to its base of 1.2m. The maximum height of the lettering would be 30cm, and would read "Kwik Fit WELCOME TO MAIDSTONE". This sign would have no illumination.

5.2.6 Fascia sign to north elevation (sign 6 in application documentation):

The advertisement would be located on the north elevation above sign 5, and would have a height to its base of 2.8m. The maximum height of the lettering would be 79cm, and would read "Kwik Fit". The advertisement would be similar in scale and appearance to sign 1. The sign is proposed to have static internal illumination with an illuminance level of 800cd/m.

5.2.7 The advertisements would be in the corporate livery of "Kwik Fit".

5.2.8 Although a third advertisement (sign 3 in application documentation) to the front (east) elevation is shown on the submitted documentation (a non-illuminated opening times sign) this is not included within the scope of the current application as it can be displayed under "deemed consent" and therefore does not require express consent.

5.2.9 The current application relates only to the advertisements, and not to any use of the building, whether requiring planning permission or not.

5.3 **Assessment**

Policy Considerations

5.3.1 Members will be aware that in determining applications for advertisement consent the matters for consideration are restricted by legislation and government guidance to those of public safety and visual amenity.

5.3.2 The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and NPPF set out the considerations to be taken into account in the determination of such applications, restricting them to those of visual amenity, in terms of the particular qualities and characteristics of the locality; highway and public safety; and the provisions of the Development Plan, so far as they are material.

5.3.3 In the case of Maidstone there is a specific policy in the Maidstone Borough-Wide Local Plan 2000 (ENV8) which relates to advertisements and requires that consideration be given to the size, design, positioning, colour and method of illumination and their relationship with both the building they are attached to and the surrounding area. The policy also requires that the standard of design is appropriate for the location of the site.

5.3.4 The issue of residential amenity is not covered by the scope of the legislation. In the case that a statutory light nuisance were to result from the advertisements, it would be controlled through separate legislation, in this case the Environmental Protection Act 1990.

Planning Considerations

- 5.3.5 The design, scale and overall appearance of the proposed advertisements are considered to be acceptable in the context of the streetscene which mainly comprises a commercial area (albeit one located in a predominantly residential area) and the appearance of the building, which is industrial in character. It is of note that illuminated fascia signs to both elevations and an illuminated totem have previously been approved under MA/04/0528. On these grounds it is considered that there is no objection to the proposal on the basis of their design or overall appearance. Although the Loose Character Area Assessment SPD recognises that the design and condition of the shopping parade are negative features in the streetscape, it is considered that in this context of the run down appearance of the vacant unit the introduction of signage to the facing elevations would result in a positive contribution to the streetscene.
- 5.3.6 The Kent County Council Highway Services Officer raises no objection to the proposal subject to details of illuminance. The advertisements, although facing the highway, are set back from the edge of the main carriageway, and are not unduly prominent or obstructive to the visibility of highway users and do not serve to distract drivers being seen in the context of existing street lighting. Consequently, it is concluded that the advertisements do not affect highway safety. Comments were made by the engineer in regard to the illuminance levels, suggesting that they be in accordance with guidance published by the Institute of Lighting Engineers (ILE). In this case the three illuminated signs would be illuminated at levels of 800cd/m, which satisfies the thresholds for maximum luminance for advertisements in small town centre or urban settings such as this, as set out in the ILE Technical Report No3 and therefore conditions in this respect are not considered necessary.
- 5.3.7 Notwithstanding the above, in order to safeguard the visual quality of the site and its setting, it is considered appropriate and necessary to condition the advertisements to be illuminated only during the hours of operation of the site.
- 5.3.8 For the reasons set out above, in the circumstances of this case I consider that the proposal is, on balance, acceptable, subject to the condition set out in the preceding paragraph.

Other Matters

- 5.3.9 Objection has been raised to the application on the grounds that the use of the site by Kwik Fit would result in additional traffic and processes which would give rise to dangerous highway conditions, inappropriate and unlawful car parking and general disturbance to neighbouring residents, as detailed above.

5.3.10 The current application is for advertisement consent, and the proposed use of the building by the applicant is not a matter for consideration.

I have sought the views of the Council's legal services section on the issue of whether the intended use requires planning permission. They have confirmed that in light of the planning history of the site and the previous consents for development, in particular planning permission MA/04/1743, it is not considered that planning permission would be required for the intended use of the premises by Kwik Fit.

5.3.11 Harm to neighbouring businesses as a result of disturbance is not a matter for consideration in the determination of applications for advertisement consent.

5.3.12 Concern has been raised with regard to procedural issues surrounding a previous application on the site, however these do not appear to have been raised at the time, and the Council's records indicate that the necessary publicity and neighbour notifications were undertaken in the correct manner.

6. CONCLUSION

6.1 Taking all of the above into account, it is considered overall that the proposal complies with Development Plan policy. I therefore recommend to Members that advertisement consent is granted subject to the following conditions.

7. RECOMMENDATION

GRANT ADVERTISEMENT CONSENT subject to conditions:

1. (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

(ii) No advertisement shall be sited or displayed so as to-
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (iv) Any structure or hoarding erected or used principally for the purpose of

displaying advertisements shall be maintained in a condition that does not endanger the public.

(v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

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

2. The advertisement(s) for which consent is hereby granted must be removed in accordance with condition 1 (iii) within five years of the date of this consent;

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

3. The advertisements hereby approved shall only be illuminated when the premises is open for business;

Reason: In order to avoid an unnecessary proliferation of illuminated signage that may be detrimental to the character of the area in accordance with policy ENV8 of the Maidstone Borough-Wide Local Plan 2000.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and 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 17

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0209

GRID REF: TQ7149

GUDGEON OAST, WEST STREET,
HUNTON.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/0209 Date: 15 February 2012 Received: 16 February 2012

APPLICANT: Mr Dennis Collins

LOCATION: GUDGEON OAST, WEST STREET, HUNTON, MAIDSTONE, KENT,
ME15 0SA

PARISH: Hunton

PROPOSAL: An application to vary condition 1 of MA/11/0944 to allow the painting of the approved feather boarding in white as described in MA/12/0209.

AGENDA DATE: 19th April 2012

CASE OFFICER: Catherine Slade

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

- Councillor Collins is the applicant.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV45
- South East Plan 2009: CC1, CC6, C4, BE6
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

- MA/12/0552 - Conversion of and alterations to two existing outbuildings for use as garden room and annex ancillary to Gudgeon Oast and alterations to approved scheme for conversion of Gudgeon Oast to residential (MA/10/1021) being changes to the arrangement of openings, introduction of external steps – CURRENTLY INVALID
- MA/11/0944 - An application to discharge conditions relating to MA/10/1021 - (conversion and adaptation of the oasthouse to form a two bedroom residential dwelling) - being details of condition 2 materials being Ashdown red bricks, plain clay Babylon Kent peg tiles and feather edged boarding; condition 4 joinery – APPROVED WITH CONDITIONS
- MA/10/1021 - Conversion and adaptation of the oasthouse to form a two bedroom residential dwelling – APPROVED WITH CONDITIONS

- MA/08/0026 - Conversion and adaptation of oasthouse to form a B1 office unit (Resubmission of MA/07/0429) – REFUSED, ALLOWED AT APPEAL
- MA/07/0429 - Conversion and adaptation to form a live/work unit – REFUSED
- MA/93/0019 - Change of use of redundant agricultural building to uses within class B1 (renewal of MA/88/0445) - APPROVED WITH CONDITIONS
- MA/89/0273 - Change of use from oasthouse and outside store for light building materials – REFUSED
- MA/88/0445 - Change of use of redundant agricultural building to a Class B1 business use - APPROVED WITH CONDITIONS

3. BACKGROUND

- 3.1 Planning permission has previously been granted subject to conditions for the conversion of Gudgeon Oast to a dwellinghouse under MA/10/1021. An application to discharge pre-commencement conditions (including details of external materials) was subsequently submitted and approved, as detailed above. The application to discharge conditions was granted subject to a condition requiring the approved feather boarding to be stained black, and maintained as such thereafter.

4. CONSULTATIONS

- 4.1 **Hunton Parish Council:** did not wish to comment on the application.
- 4.2 **Maidstone Borough Council Conservation Officer:** raises no objection to the proposed variation.

5. REPRESENTATIONS

- 5.1 No representations have been received.

6. CONSIDERATIONS

6.1 Site Description

- 6.1.1 The proposal site is located in open countryside in the rural parish of Hunton. The site has no specific environmental or economic designations in the Local Plan.

6.1.2 Gudgeon Oast is located in the north of the site, immediately adjacent to West Street from which the building is clearly visible in public views. The building comprises an oasthouse, the roundel of which is in the process of being restored and the stowage rebuilt as part of the implementation of planning permission MA/10/1021 for the conversion of the building to a dwellinghouse.

6.2 Proposal

6.2.1 An application to discharge conditions, including external materials, attached to MA/10/1021 was approved under MA/11/0944. Condition 1 attached to the discharge of conditions reads as follows:-

The feather boarding hereby permitted shall be stained black before the first occupation of the dwelling and shall be subsequently maintained in that condition thereafter;

6.2.2 The condition was imposed in order to secure the character and appearance of the development and prevent the use of an inappropriate finish to the development.

6.2.3 This application seeks to vary the condition to allow the weather boarding to be painted white.

6.3 Considerations

6.3.1 The main issues for consideration are whether the proposed change would be harmful to the character of the surrounding area or the building itself.

6.3.2 The Maidstone Borough Council Conservation Officer has confirmed that the use of a white finish is traditional in the area, and has on this basis raised no objection to the proposed variation of the condition on heritage grounds. On these grounds, notwithstanding the prominent position of the building in the streetscene and views of the open countryside, it is not considered that the proposed variation would result in visual harm to the quality of the countryside or the historic integrity of the oast itself, and that the painting of the weather boarding white would result in an acceptable appearance to the development.

6.3.3 It is not considered that the variation of the condition would result in any impact upon the residential amenity of the occupiers of the neighbouring residential dwellings or have any implications for highway safety.

7. CONCLUSION

- 7.1 For these reasons, it is considered that the proposal to vary the condition subject to a further condition requiring the feather boarding to be painted white and maintained as such in order to secure the appearance of the building should be recommended for approval.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following condition:

1. The feather boarding hereby permitted shall be painted white before the first occupation of the dwelling and shall be subsequently maintained in that condition thereafter;

Reason: To ensure a satisfactory appearance to the development and to secure the historic character of the building in accordance with policies ENV28 and ENV45 of the Maidstone Borough-Wide Local Plan 2000, 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.

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SCAFFOLDING
— LTD —
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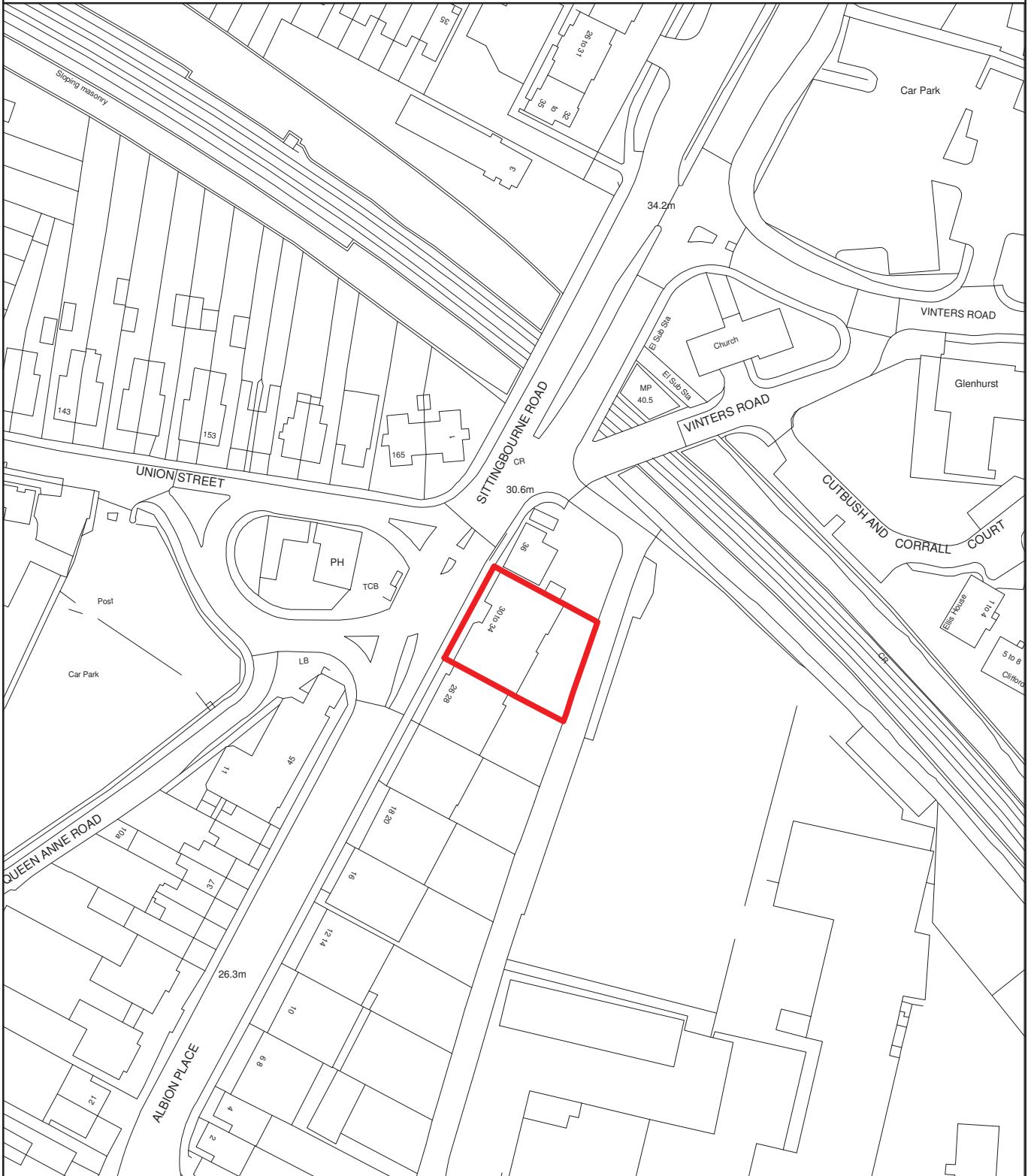
Agenda Item 18

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0472

GRID REF: TQ7655

LYNDEAN HOUSE, 30 ALBION PLACE,
MAIDSTONE.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/0472 Date: 12 March 2012 Received: 13 March 2012

APPLICANT: Abacus Accounting Ltd

LOCATION: LYNDEAN HOUSE, 30, ALBION PLACE, MAIDSTONE, KENT, ME14 5DZ

PARISH: Maidstone

PROPOSAL: Change of use of part of lower ground floor and single parking bay from office space (B1 Use) to shop (A1 Use) and installation of new shop front as shown on Design & Access statement and drawing nos. 4148-PD-001 & 002 received 13/03/12 and e-mail received 05/04/12.

AGENDA DATE: 19th April 2012

CASE OFFICER: Kathryn Altieri

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

- It is a departure from the Development Plan as it involves a non-B1 use in a designated employment area under Policy ED2 of the Maidstone Borough-Wide Local Plan 2000.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ED2, T13
- South East Plan 2009: CC1, CC6, BE1, T4, NRM10, RE3
- National Planning Policy Framework (March 2012)

2. HISTORY (relevant)

- MA/79/1281 - Amended details of office building previously approved under MA/75/718 – approved/granted with conditions
- MA/75/0718 - Proposed office building gross floor area 925m² gross floor area with rear car park for 8 cars – approved/granted
- MA/74/0759 - The erection of a new office building – approved/granted
- 72/0585/MK1 - Change of use of existing dwelling house to W.R.V.S. centre for the administration of welfare activities – approved/granted with conditions

3. CONSULTATIONS

- Environmental Health Officer:

Verbally confirmed there are no significant environmental health issues.

- KCC Highways Development Planner: Wishes to see the application refused;

- 1. Any development on this site without adequate provision for parking facilities would be likely to encourage the parking of vehicles on the public highway and would be likely to interfere with the free flow of traffic on the A249 (Sittingbourne Road) and prejudice the safety of road users.*
- 2. I am also concerned that there may not be sufficient space along the service road to the rear of the site for deliveries to be made and tracking diagrams should be provided to address this concern. Without adequate space for deliveries to be made from the service road, these vehicles would be likely to park on the highway, with the consequence of additional hazard to all users of the road.*

4. REPRESENTATIONS

- 1 objection from 36 Albion Place raising concerns over parking provision.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 30 Albion place, known as Lyndean House, is the end building of a row of similar styled office buildings that front onto the A249 within the urban area, in walking distance of Maidstone town Centre. To the front of the building there is a signalled pedestrian crossing and railings along the footpath (close to the kerb); and the road is marked with double yellow lines. To the rear of the site there is a private access road and a parking area for Lyndean House. Sittingbourne Road public car park is some 85m to the north of the site and Union Street East public car park is some 40m to the west of the site. The surrounding area is largely characterised by three storey and four storey office buildings, although there is a public house sited immediately opposite the application site (to the west) and Union Street (to the north-west of the site) which is a residential street.

5.1.2 The site is within an 'area of economic activity' (ED2 [xix]), as shown by the Maidstone Borough-Wide Local Plan 2000 (MBWLP), which designates the site as suitable for uses with Use Class B1.

5.2 Proposal

5.2.1 The application is for the change of use of part of the lower ground floor from office space (B1 Use) to a convenience shop (A1 Use) and for the installation of a new shop front. The application site specifically relates to some 134m² of floor space at lower ground floor level with customer access available to both the front and rear of the building. The proposed shop front (some 6m wide and 3m in height) would be largely glazed with aluminium frames, and aluminium pilasters and stall riser.

5.3 Principle of Development

5.3.1 The application has been advertised as a departure from the Development Plan as it involves a non-B1 use in a designated employment area under saved policy ED2 of the (MBWLP) that states;

"Planning permission will not be granted to redevelop or use vacant business, industrial, storage or distribution sites or premises for non-employment purposes unless the retention of the site or premises for employment use has been explored fully without success."

5.3.2 Central government guidance and advice has changed since the (MBWLP) was adopted. Therefore, when determining this application, it is appropriate to give weight to the more recent central government guidance set out in the National Planning Policy Framework (March 2012).

5.3.3 Whilst this application is a departure from the (MBWLP), I consider the introduction of the National Planning Policy Framework (NPPF) to be a significant "*material consideration*" in the determination of this application. This is in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

5.3.4 Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development; and for decision-taking this means that where relevant policies of the Development Plan are out of date, the local authority should grant permission unless;

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *specific policies in this Framework indicate development should be restricted.*

5.3.5 With regards to saved policy ED2 of the MBWLP, the economic climate is now markedly different to how it was in 2000, when this policy was introduced; and I

can see no benefit in leaving the office unit empty (see section 5.4 of this report for the background/marketing of this unit). Indeed, the application site is in a very sustainable area and the proposed use is suited to its town centre location. Furthermore, under paragraph 17 of the NPPF, one of the core planning principles is to....*"proactively drive and support sustainable economic development....and respond positively to wider opportunities for growth"*.

5.3.6 Paragraph 19 of the NPPF starts by stating, *"The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth....and the planning should operate to encourage and not act as an impediment to sustainable growth."*

5.3.7 Significant weight needs to be placed on the need to support economic growth and given the merits of this application, I am of the view that a departure from B1 Use in this location would echo the sentiments of this guidance in *"widening the opportunities for growth"* in this location. I am satisfied that the proposed change of use would generate employment opportunities and so continue to be a form of economic development. I appreciate that it would be a relatively low level of employment, but it should be put into context that this proposal is only concerned with 134m² of floor space and the unit is currently empty, employing no-one.

5.3.8 This sentiment is echoed by policy RE3 of the South East Plan 2009, which states, *"In planning for the location, quantity and nature of employment land and premises, they will (LDF's) facilitate a flexible supply of land to meet the varying needs of the economic sector"*.

Supporting information from applicant

5.3.9 Due to the site's employment designation, the applicant needed to demonstrate that the retention of the site for B1 Use based employment purposes had been fully examined, without success.

5.3.10 According to the applicant, when the property was purchased in June 2010 (at auction), the ground floor (right sided unit), first and third floors were entirely empty. Although the exact date is unknown, the previous owners did advise that this vacant space had not been occupied for a considerable period of time. The situation has since been exacerbated as the left sided ground floor unit became empty in June 2011 and the right sided unit on the second floor was also became vacant in December 2011.

5.3.11 Cluttons undertook the task of letting the remaining office space available in the building in August 2010. At this time, a marketing board was erected onto the premises; full particulars were circulated to applicants on their database;

the premises were listed on both the Cluttons and EG Propertylink website; and adverts were put in the Kent Messenger on a bi-monthly basis. Little interest was generated and it is thought that there only some ten viewings over an eighteenth month period. During this time, no offers were made by any applicant. The main concerns for potential tenants were the building's lack of parking facilities and distances from amenities and public transport links, such as railway stations.

- 5.3.12 Further information submitted by the applicant and reportedly taken from a 2011 Cluttons appraisal, gave the following detail;

"Vacancy levels in the town centre were estimated to be 445,000 sq ft in 2010, 401,000 sq ft in 2009, 229,000 sq ft in 2008 and 262,000 sq ft in 2007.....In conclusion the floor area of office accommodation currently available in Maidstone substantially exceeds the demand with the recent vacancy rate of around 20%.....This is not expected to improve in the foreseeable future and could remain depressed for the medium term."

Assessment of supporting evidence

- 5.3.13 By reason of the amount of vacant office space (clearly evident specifically along Albion Place with several 'TO LET' signs up on existing office buildings), the submitted evidence does appear to show an over-provision of low quality office accommodation in and around Maidstone town centre. Furthermore, work carried out to date, by GVA Grimley on behalf of the Council (Employment Land Review - September 2009) showed that there was an excess of 50,000m² of vacant office space within the borough of Maidstone. I consider this study to be a material consideration in the determination of this planning application. No interest has been shown in this particular unit for almost a year and the other similar units for over two years; and what with the current economic climate, there is little indication that this form of economic growth is imminent.
- 5.3.14 In addition to this, the Council's Regeneration and Economic Development Manager confirmed that there was 30,708m² of vacant office stock within the town centre area (details given 10th Jan 2011).
- 5.3.15 Together with the existing over supply of office accommodation, there are several outstanding planning permissions that will further expand the provision within the town. As an example, the Springfield site will have three purpose built blocks equating to some 16,500m². This shows that there is a clear over-supply of poor quality accommodation; and those interested in re-locating to, or enlarging within the town are seeking more high specification office space. I am satisfied that this economic information supports an alternative use of the site and consider it appropriate to assess the potential viability of this proposal to provide employment within other sectors.

- 5.3.16 To my mind, one of the objectives of Policy ED2 of the Local Plan and the National Planning Policy Framework is to designate and maintain areas for employment use. Clearly, a convenience shop would still maintain the building for employment use, albeit on a small scale. Furthermore, due to the modest floor area under consideration, I do not consider this change of use would significantly increase pressure for additional allocations on fresh land, especially bearing in mind the number of vacant offices in Albion Place and the wider Maidstone centre area.
- 5.3.17 Whilst the application is technically a departure from the Development Plan, in that it would not provide B1 employment accommodation, it would nonetheless fall within the scope of economic development, providing continued employment within a designated employment area (suited to a town centre use), where several units are vacant. This would be in line with central government guidance, where the need for adaptability and flexibility in the allocation of employment land is necessary. Therefore, on considering the supporting evidence, I consider the principle of this proposal to be acceptable.

5.4 Impact upon highway safety

- 5.4.1 Under this proposal, there would be one parking space for staff (to the rear of site), deliveries would be made to the rear and there would be no customer parking. However, it is my view that the majority of customers would be on foot, either from the surrounding offices, near-by residential streets or schools; or pedestrians simply passing through on their way in and out of Maidstone town centre.
- 5.4.2 If people were to drive to the proposal site, it is my view that they are unlikely to stop on the road in front of the shop, given its 'A' road classification and the double yellow lines, signalled pedestrian crossing and pavement railings immediately outside the building (preventing vehicles riding the kerb); and furthermore, there are also two public car parks within close proximity of the site where customers can park. In terms of delivery vehicles using the access road to the rear of the site, I am satisfied that this would not lead to any significant highway safety issues.
- 5.4.3 I do not consider the objections raised by the KCC Highways Development Planner as sufficient justification to refuse this application alone. Therefore, given the proposal's nature and sustainable location, I am of the view that it would not result in a development that would have an adverse impact on highway safety; and nor would it have a significant impact upon the parking provision or generate any further need.

5.5 Visual Impact

- 5.5.1 In my opinion, the proposed shop front would be well proportioned and in alignment with the existing fenestration detail of the building and neighbouring buildings; its use of aluminium would fully respect the design of the existing metal framed windows to the building; and the large glazed elements would further reduce its overall visual impact. The alterations to the rear would not be visible from any public vantage point.
- 5.5.2 I am therefore of the view that the proposed shop front would not overwhelm or destroy the character of the existing building and nor would it significantly affect the character and appearance of the area or adjacent buildings.

5.6 Residential Amenity

- 5.6.1 No residential property would be within 25m of the application site. I am of the view that this separation distance together with the nature of the proposal would result in a development that would not have a significant detrimental impact on the residential amenity in terms of general disturbance, loss of light/outlook or loss of privacy. To further safeguard the amenity of surrounding residents, I consider it reasonable to restrict the opening hours of the retail unit between the hours of 7am-11pm Mondays - Sundays (including Bank Holidays).

5.7 Other Matters

- 5.7.1 Given the nature of the proposal, there are no significant issues with respect to landscaping, bio-diversity or drainage.

6. CONCLUSION

- 6.1 With everything considered, I therefore conclude that it is appropriate and justified to depart from the existing Development Plan and to give greater weight to the more up to date guidance provided by Central Government in the National Planning Policy Framework. I therefore recommend conditional approval of the application on this basis.

7. RECOMMENDATION

THE HEAD OF PLANNING BE GIVEN DELEGATED POWERS TO GRANT PLANNING PERMISSION WITH CONDITIONS SUBJECT TO THE EXPIRY OF THE PUBLIC CONSULTATION PERIOD, THE NEWSPAPER ADVERT AND NO NEW ISSUES RAISED:

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. Any activity in connection with the use of the premises shall only take place between the hours of 07:00hrs and 23:00hrs Mondays - Sundays (including Bank Holidays);

Reasons: To safeguard the enjoyment of their properties by nearby residential occupiers in accordance with policy NRM10 of the South East Plan 2009 and the National Planning Policy Framework.

Informatives set out below

Any signage related to the approved development is likely to require advertisement consent. The applicant is advised to contact the Planning Duty Officer for further advice on 01622 602550.

The proposed development would be a departure from the Development Plan, in that it would not provide B1 Use employment accommodation within the application site in accordance with Policy ED2 of the Maidstone Borough-Wide Local Plan 2000. However, the proposed change of use would not be prejudicial to its designation and is in accordance with the advice in the National Planning Policy Framework which is more recent than policy ED2 of the Maidstone Borough-Wide Local Plan 2000, in that it is considered to be an acceptable form of sustainable economic development and that subject to the conditions stated there are no overriding material considerations to indicate a refusal of planning consent.

Reference number: MA/12/0472

- The Council's Environmental Health Officer has commented as follows;

"The site is just off the town centre in a mixed use area, any demolition or construction activities may have an impact on local residents and so the usual informatives should apply in this respect. The ground floor to be converted for shop use should be checked for the presence of asbestos and any found must only be removed by a licensed contractor.

I note that the applicant has applied for opening hours of 7am to 11pm seven days a week including bank holidays, but I consider that this may be too detrimental to local residents' amenity and so opening hours should be restricted (at least initially) through a condition.

Recommended condition –

No activity in connection with the use hereby permitted shall be carried out outside the hours of 07:00am to 11:00pm Mondays to Saturdays and 08:00am to 10:00pm on Sundays, Bank or Public Holidays;

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers.

Recommended informatives –

In order to minimise dust and dirt being blown about and potentially causing a nuisance to occupiers of nearby premises the following precautions should be taken.

- *Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down the general site area, using a suitable water or liquid spray system.*
- *Where practicable, all loose material on the site should be covered during the demolition process.*
- *During the construction, reconstruction, refurbishment or modification of the building and where practicable the exterior should be sheeted, enclosing openings etc. as necessary.*

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

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

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM regarding noise control requirements.

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

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

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

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager."

Given the separation distance of the application site from any residential property, the 'restricted hours of use' condition that is included as part of the Case Officer's recommendation is considered reasonable. Several of the recommended informatives are considered relevant and are recommended to be included as part of the recommended decision.

My recommendation remains unchanged subject to the addition of the following informatives;

1. In order to minimise dust and dirt being blown about and potentially causing a nuisance to occupiers of nearby premises the following precautions should be taken.
 - Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down the general site area, using a suitable water or liquid spray system.
 - Where practicable, all loose material on the site should be covered during the demolition process.
 - During the construction, reconstruction, refurbishment or modification of the building and where practicable the exterior should be sheeted, enclosing openings etc. as necessary.
2. Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.
3. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
4. Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM regarding noise control requirements.
5. Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the EHM.
6. Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
7. Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

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Agenda Item 19



THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 19 of 2011
Trees rear of 12,14,16 Ashdown Close, Maidstone.

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Schedule

Individual Trees: T1 Pine, T2 Pine, T3 Pine

Groups of Trees: None

Areas of Trees: None

Woodlands: None

Extract from OS Map
Scale 1:1250

[Director of Change, Planning and The Environment]
[Assistant Director of Environment & Regulatory Services]
[delete as appropriate]
as authorised signatory

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

19th APRIL 2012

REPORT OF HEAD OF PLANNING

REFERENCE: Tree Preservation Order No. 19 of 2011 DATE: 10 November 2011

TITLE: Trees rear of 12, 14, 16 Ashdown Close, Maidstone

CASE OFFICER: Nick Gallavin

Tree Preservation Order (TPO) No.19 of 2011 was made under section 201 of the Town and Country Planning Act 1990 to protect three Pine trees. One objection to the order has been received and the Planning Committee is, therefore, required to consider this before deciding whether the Order should be confirmed.

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

- One objection has been received

POLICIES

Government Policy: PPS1, Delivering Sustainable Development- Protection & Enhancement of the Environment
CLG, Tree Preservation Orders: A Guide to the Law & Good Practice

Local Policy: Maidstone Borough Council, Landscape Character Assessment and Landscape Guidelines, 2000

BACKGROUND

The Council was made aware of an intention to fell one or more mature Pine trees in the rear gardens of properties on the west side of Ashdown Close. The reasons for felling were not known.

A site visit was carried out the Landscape Officer on 7 November 2011 and the trees were viewed from public viewpoints only. Three trees, all Pines, were noted to be particularly prominent in the landscape, being visible from Ashdown Close and the A26 Tonbridge Road. As such they were considered to make a valuable contribution to the character and amenity of the area.

The trees exhibited some evidence of previous pruning works but appeared to be in good condition with apparently healthy density and colour of needle growth.

Although one tree was known to be directly under threat, it was not known with certainty which one. Furthermore, to protect only one tree could result in the felling of the unprotected ones in response to the making of the Order.

It was therefore considered expedient to protect all three trees, which are equally prominent.

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

The three Pine trees are mature, apparently healthy specimens, prominent from Ashdown Close and the A26 Tonbridge Road and therefore make a valuable contribution to the character and amenity of the area. The trees are considered to be under threat from an intention to carry out felling works. Therefore, it is considered expedient to make the trees the subject of a Tree Preservation Order.

The provisional Order expires on 10 May 2012.

OBJECTIONS (*objection/s from those parties served with the order*)

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

One formal objection has been received to the order in respect of T1 only, within the statutory 28 day period from its making by the owner/occupier of 12 Ashdown Close. The full text of the objection is attached to this report as Appendix A.

The grounds of the objection are summarised as follows: -

1. The area is very well wooded. T1 does not make a valuable contribution to the character and amenity of the area.
2. The TPO fails to consider the effect on the occupant and owner.
3. T1 is not in good condition, with no branches on the lower half, and some branches appear to be dead. Branches sometimes fall from the tree.
4. Pine needles frequently block gutters and drains.
5. T1 is a potential hazard to persons and property, being taller than the distance it is from the house, so severe damage would occur if it failed. This causes the owner constant anxiety and stress. An identical tree has failed on the property in the past, causing extensive damage to gardens and the properties No.10 and No.12. The TPO is unreasonable because harsh weather conditions cannot be excluded and Maidstone Borough Council takes no responsibility and provides no compensation in the event of damage or injury.
6. It has not been found necessary to issue a TPO in the 49 years since the house was built and this has now been done without discussion with the owner.

A representation and further email was also received in response to the making of the order, within the statutory 28 day period from its making by the owner/occupier of 16 Ashdown Close. Although the representation does not state that it is a formal objection, members are requested to consider the issues

raised before deciding whether the order should be confirmed. The full text of the representation and email are attached to this report as Appendix B.

The issues raised in the representation and email are summarised as follows: -

1. The trees are close to houses.
2. No.16 had to be underpinned in 1983. The presence of mature trees may have contributed to the need for this to be done.
3. A tall pine in the garden of No.14 blew down in the 1987 hurricane, causing damage to No.10.
4. The three tall, old and heavy trees could cause serious damage to houses and risk to life.
5. The TPO may seriously reduce the value of their home.
6. Extant planning permissions in the adjacent property (The Poplars Nursing Home) mean that there is a danger that the demolition of concrete floors and the formation of hard surfaces could damage the roots of T3 and T2.

CONSIDERATIONS

SITE AND SURROUNDINGS

The trees are growing in the rear gardens of detached dwellings in Ashdown Close, a residential cul-de-sac. Adjacent and to the west of the rear gardens is the access drive and grounds to the front of The Poplars Nursing Home, Tonbridge Road. Ashdown Close is in an elevated position relative to the A26 Tonbridge Road, so the Pines appear as skyline trees from viewpoints on the A26. The character of the area is generally urban or suburban.

DESCRIPTION OF TREE/S

The trees are all mature Pines and appear to be in a healthy condition with no significant visual defects.

T1 is growing in the garden of No. 12 Ashdown Close and reaches a height of approximately 22 metres, with a radial crown spread of approximately 3 metres. Stem diameter is estimated at 60cm. The tree has no lower branches below approximately half of its total height.

T2 is growing in the garden of No. 14 Ashdown Close and reaches a height of approximately 24 metres, with a radial crown spread of up to 8 metres. Stem diameter is estimated at 70cm.

T3 is growing in the garden of No. 16 Ashdown Close and is estimated to reach a height of 18 metres, with a radial crown spread of up to 8 metres. Stem diameter is estimated at 70cm. The tree has lost its central leading shoot in the past, consistent with storm damage as described by the owner.

LEGAL CONTEXT

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

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

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

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

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

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

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

RESPONSE TO OBJECTION/S

The response to the principle points of objection set out above is as follows:-

1. Whilst other mature trees are present in the area, it is considered that T1 makes a valuable contribution to the character and amenity of the area, particularly from the A26 Tonbridge Road, from where it is a skyline tree, but also from Ashdown Close. The fact that it stands apart from T2 and T3 is not considered to reduce its value.
2. Tree Preservation Orders do not take account of the personal circumstances of tree owners. They are generally made to protect the public amenity afforded by trees that are potentially placed under threat.
3. T1 appears to be in reasonable condition. No significant dead branches were noted from ground level inspection. Evidence of a previously broken branch can be seen in the upper crown, consistent with old

storm damage. Some minor deadwood would be expected with a tree of this age. Any significant deadwood or broken branches could be addressed as exempt works and would not require an application to be made under the TPO.

4. Whilst inconvenient, Pine needle litter is a natural occurrence that should be expected and accepted in the vicinity of mature Pine trees and is not normally considered to be sufficient justification to fell trees.
5. No visual indications suggest that there is of an abnormal risk of failure of T1 and no evidence had been provided to that effect. Estimates of the trees height and stem diameter indicate that the ratio between the two (the 'slenderness' of the tree) falls within acceptable limits and no significant structural defects have been observed. The confirmation of the order would not prevent the owner of No.12 from making an application for works, or from carrying out emergency or 'exempt' works if they become necessary. The failure of other trees in the past is not considered to be a reason not to continue to protect T1, approximately 25 years since that event. Extreme weather events can result in the unpredictable failure of trees and can result in damage and injury, but this is not considered to justify the felling of a tree simply because it is within falling distance of a property. The making of a Tree Preservation Order does not transfer any responsibility to the Council. Compensation liability does not arise as a result of the making or confirmation of a Tree Preservation Order, but can arise as a result of a refusal of consent following an application in the future.
6. A Tree Preservation Order has not been made in respect of these trees in the past. This order was made because it was considered that the protection of the trees was expedient. It is not usual to discuss the making of an order with owners prior to them being made, as this could result in trees being felled before the making of an order is completed.

RESPONSE TO REPRESENTATION/S

The response to the issues arising from the representations set out above is as follows:-

1. The issue of trees being close to houses is addressed above.
2. The representation only states that the underpinning works may have been necessary due to the presence of mature trees and could therefore be entirely unrelated.
3. The Pine blowing down in the 1987 hurricane and causing damage to No.10 is thought to be the same tree referred to in the objection and is therefore addressed above.
4. No evidence has been put forward to indicate that the trees exhibit an abnormal risk of failure that would result in serious damage to houses or risk to life.
5. A reduction in the value of a property is not considered to be a reason not to confirm the order. The presence of mature trees is often considered to increase the value of properties.

6. The current planning consent, MA/11/0271, has conditions attached which require details to be submitted in respect of tree protection, intended to prevent unacceptable levels of tree root damage, in accordance with current British Standards.

OTHER CONSIDERATIONS

It has been brought to the Council's attention by a third party that the making of the order has caused considerable distress to the owner/occupier of No.12 Ashdown Close. It is understood that the distress results from a fear that the tree in their garden may fall, causing damage or injury and that the making of the order prevents action from being taken to remove the risk that is causing the constant anxiety and stress.

The making of an order seeks to control works to trees considered to be of public amenity value that are under threat and does not take account of individual personal circumstances. However, in order to minimise further distress, the owner has not been contacted directly by officers. Access to inspect the tree from the owner's garden in the context of the objection was requested via the third party but was unfortunately not possible. The tree has therefore only been viewed from the adjacent property and from public viewpoints and stem diameter has been estimated from the adjacent driveway.

CONCLUSION:

For the reasons set out above it is considered that:

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

RECOMMENDATION:

CONFIRM WITHOUT MODIFICATION Tree Preservation Order No.19 of 2011.

BACKGROUND DOCUMENTS:

406/100/343 - TPO No.19 of 2011
MA/11/0271 (renewal of MA/08/1483)

APPENDIX A

objection

APPENDIX A

ack
8/12/11
PF.

12 Ashdown Close, Maidstone, Kent ME16 8AD

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

RECORDED DELIVERY

Re: Tree Preservation Order No. 19 of 2011: Tree at rear of 12 Ashdown Close, Maidstone ME16 8AD

This letter refers only to the tree at No 12 Ashdown Close, labelled as T1 on your plan accompanying the Order. I am the owner occupier of the above premises and am writing to register my objections to this Order in relation to the single tree at this property.

The whole area is very well wooded. In respect of tree T1 the statement that it makes a valuable contribution to the character and amenity of the area is open to contradiction. It stands apart from T2 and T3, which appear to be in fair condition and which are close to each other and to other fir and deciduous trees. T1 is separate, intervening trees having fallen. This is shown on the enclosed photographs. The TPO gives undue weight to an environmental argument and fails to consider the effect on the occupant and owner.

T1 is not in good condition; there are no remaining branches on the lower half of the tree. Above that, some branches appear to be dead and branches sometimes fall from the tree. Although not a danger, dead pine needles fall in profusion and frequently cause blockages to gutters and drains which I am personally not able to deal with.

T1 is a potential hazard to persons and property. It is approximately 19 metres in height and only 12.5 metres from my house. In the event of the tree or part of it falling, severe damage would be inevitable as the enclosed photographs illustrate. In illustration of the potential hazard, on a previous occasion of severe weather an identical pine tree, also on this property, came down, trapping my husband and myself in the house and causing extensive damage to garden and fencing and structural damage to this house and the adjacent house at No 10 Ashdown Close where it struck within 1 metre of the occupants at the time. Since the possibility of harsh weather conditions and consequent damage or injury cannot be excluded and Maidstone Borough Council takes no responsibility and provides no compensation for damage or injury to property or persons, the issue of a tree preservation order on tree T1 is unreasonable.

MBC have not found it necessary to issue a TPO in respect of T1 during the 49 years since this house was built but have now done so without discussion with me as owner. I am 88 years of age, a widow, living alone with no family nearer than 100 miles, endeavouring to keep my independence and maintain my property, to the best of my means. In view of the potential hazard to me and my home, the constant anxiety and stress and the maintenance aspects, I request that the Tree Preservation Order 19 of 2011 be cancelled in respect of T1 and not renewed, leaving decisions concerning the tree to me as owner and the person most affected by it. I am very conscious and considerate of environmental matters but consider the basis of the tree preservation order to be unfounded and unbalanced in respect of T1.

Yours faithfully
(Mrs) Betty Sheldon

Betty Sheldon





APPENDIX B

ack
25/11/11
PF

16 Ashdown Close
Maidstone ME16 8AD

Planning Policy and Environment Manager
Maidstone Borough Council
Directorate of Regulatory Services
P O Box 249
Maidstone ME15 6JQ

21 November 2011

Dear Sir or Madam

Thank you for your letter re Tree Protection Order No.19 of 2011 placed on our Pine Tree T3. It was there when we bought the house, in 1963 and we would never contemplate felling it while it is healthy.

T3 is situated next to the boundary fence of The Poplars Care Home, on land originally belonging to the "Manor House", opposite 16 Ashdown Close. The "Manor House" and "The Poplars" were built in the 1850's by the two Sharp Brothers (Trebzor Sharp the Maidstone sweet manufacturers), who may have planted the pine trees to form the boundary between their two homes about 150 years ago.

However, though we love trees, there are concerns that we wish the council to take into consideration.

1. The three trees referred to in the Tree Protection Order are in the rear gardens and are very close to the houses, about 40 ft away in our case. Would the council advise us on their safety?
2. Our house, number 16, had to be underpinned in 1983. This may or may not have been due to the existing mature pine (T3), chestnut, yew and ash trees on our property when we bought it.
3. A tall pine tree, similar to ours and standing in the garden of number 14 Ashdown Close, was blown down in the 1987 hurricane, causing damage to number 10 Ashdown Close. In that storm our pine lost part of its top but no serious damage was caused.
4. We are therefore very concerned that the three very tall, old and heavy trees could cause serious damage to our own house and to those of immediate neighbours and could be a risk to life. This situation coupled with the protection order may seriously reduce the value of our home, our principle asset, and make it difficult to sell. We are in our late seventies and may in time wish to move to a more manageable smaller property or other accommodation. Would there be compensation available if our house had to be sold at a price below its true value?
5. A further major worry is Planning permission Number 11/0271 MA/08/1483 – Resubmission of (MA/07/0826) exists for a very large extension to The Poplars Care Home with permission to demolish two existing garages immediately behind our fence to make way for car parking spaces. Our pine has large branches spanning the boundary and over the parking spaces. There is a danger that the demolition of the concrete floors and forming the surfaces for parking could damage the root systems of T3, the yew and chestnut trees and the pine T2 at No 14.
6. May we please have assurances from MBC on the matters raised and if there were problems with T3 and the other tall pines rendering them unsafe, the council would allow remedial action to be taken to make the trees safe or to allow them to be felled only as a last resort?

My wife and I, Josephine A McElroy and John D N McElroy, are the owners of 16 Ashdown Close and there are no other interested parties. We enclose the relevant signed form to this effect.

We look forward to your reply regarding the matters concerning us in the above numbered paragraphs.

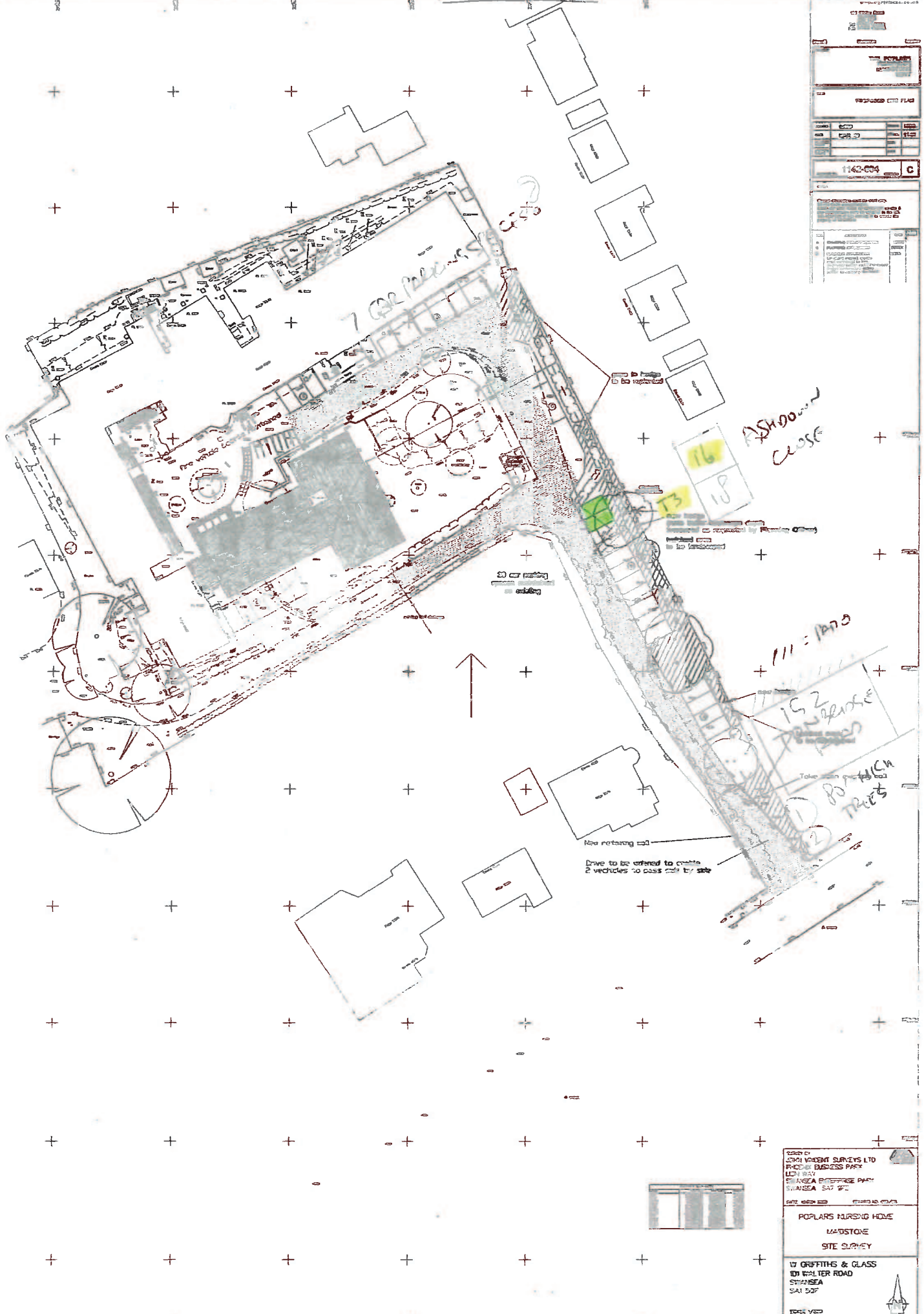
Yours faithfully
John D N McElroy
John D N McElroy

PTO>>>> Plan re T3 and para. 5



APPENDIX B

PROJECT	
PROPOSED LTD FLAG	
DATE	11/12/04
SCALE	C
DRAWN BY	
CHECKED BY	
APPROVED BY	



DRAWN BY
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 POPLARS NURSING HOME
 MADSTONE
 SITE SURVEY
 17 ORFITHS & GLASS
 101 WATER ROAD
 STANSEA
 SA1 5DF
 DATE Y20

Nick Gallavin

From: Heritage And Landscape
Sent: 07 December 2011 12:52
To: Nick Gallavin
Subject: FW: Tree Preservation Order No 19 of 2011 - 16 Ashdown Close

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Nick

One for you to look into.

Pat

From: John McElroy [mailto:johnjo.mcelroy@btinternet.com]
Sent: 06 December 2011 11:52
To: Heritage And Landscape
Subject: Tree Preservation Order No 19 of 2011 - 16 Ashdown Close

Attention of Mr Gallavin

With regard to my letter of 21 November 2011 and my telephone message to your office on Friday 2nd December 2011 I confirm the message in more detail.

On Friday 2nd of December I became aware of the sound of trees being sawn in the grounds of The Poplars Care Home close to our boundary fence with The Poplars. In view of the the preservation order I went to investigate what was happening. The tree surgery was in fact on the other side of The Poplars' driveway.

I was concerned because a year or so ago branches of our chestnut tree overhanging The Poplars' fence had been cut back without any consultation with us and I did not want this to happen again.

I spoke to the tree surgeon (I do not know his name) and asked if he was going to do any work on the pine trees. He replied "not at the moment". I explained about the preservation order. He said he was not aware of the preservation order but it was all right to cut off lower overhanging branches of the preserved trees. I said that I doubted that was the case, having carefully read all the papers about the preservation order sent to us by the MBC.

I went back to our house and telephoned The Poplars and spoke to Phillipa, the Buisness Manager, and explained about the preservation order. She was not aware of this but would ask the tree surgeon to examine the pine trees and, if any needed attention, they would seek permission from the Council to do what was necessary.

In my letter of 21 November I drew attention to the planning permission already granted to The Poplars and which will affect our tree and the other adjacent ones. There are many conditions to this permission regarding trees and land- scaping in the grounds of The Poplars, particularly condition No. 10. May I please ask you to take into consideration this and the other matters I have explained above in considering the long term question of the tree preservation order?

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By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted