

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 7 June 2012
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Ash, Collins, Cox, English, Garland,
Harwood, Hogg, Lusty (Chairman),
Newton, Paterson, Mrs Robertson,
Thick and J.A. Wilson

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 14 June 2012

Continued Over/:

Issued on 28 May 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.
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PLEASE NOTE

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

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

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 17 MAY 2012

Present: Councillor Lusty (Chairman) and Councillors Ash, Collins, Cox, Garland, Harwood, Hogg, Newton, Paterson, Thick, Vizzard and J A Wilson

Also Present: Councillor Mrs Gibson

1. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors English and Mrs Robertson.

2. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Vizzard was substituting for Councillor Mrs Robertson.

3. NOTIFICATION OF VISITING MEMBERS

Councillor Mrs Gibson indicated her wish to speak on the reports of the Head of Planning relating to applications MA/11/0917 and MA/11/1528.

4. ELECTION OF CHAIRMAN

RESOLVED: That Councillor Lusty be elected as Chairman of the Committee for the Municipal Year 2012/13.

5. ELECTION OF VICE-CHAIRMAN

RESOLVED: That Councillor Collins be elected as Vice-Chairman of the Committee for the Municipal Year 2012/13.

6. ITEMS WITHDRAWN FROM THE AGENDA

MA/12/0616 - ERECTION OF 2 NO. DETACHED CHALET BUNGALOWS INCLUDING NEW VEHICLE ACCESS AND ALL OTHER ASSOCIATED WORKS TO REPLACE EXISTING DWELLING – 8 MANOR CLOSE, BEARSTED, MAIDSTONE

The Committee considered the urgent update report of the Head of Planning recommending that this application be withdrawn from the agenda and reported back once the consultation period has expired and all representations have been assessed.

RESOLVED: That application MA/12/0616 be withdrawn from the agenda and reported back to the Committee once the consultation period has expired and all representations have been assessed.

7. 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.

8. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Hogg stated that since he had pre-determined application MA/11/1315, he would speak but not vote when it was discussed.

Councillor Newton disclosed a prejudicial interest in application MA/12/0525. He stated that he had been commissioned to design and construct the proposed artwork.

9. EXEMPT ITEMS

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

10. MINUTES OF THE MEETING HELD ON 19 APRIL 2012

RESOLVED: That the Minutes of the meeting held on 19 April 2012 be approved as a correct record and signed.

11. APPOINTMENT OF POLITICAL GROUP SPOKESPERSONS

RESOLVED: That the following Members be appointed as Spokespersons for their respective Political Groups for the Municipal Year 2012/13:-

Councillor Ash – Conservative Group
Councillor Harwood – Liberal Democrat Group
Councillor Newton – Independent Group

12. PRESENTATION OF PETITIONS

There were no petitions.

13. 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 Members that negotiations were continuing in respect of this application.

14. MA/11/0917 - USE OF LAND FOR THE STATIONING OF TWO TOURING CARAVANS FOR A GYPSY FAMILY TOGETHER WITH UTILITY ROOM AND PROVISION OF A HARDSTANDING AND TEMPORARY TOILET - LAND AT THE MEADOWS, LENHAM ROAD, HEADCORN, MAIDSTONE

The Chairman and Councillors Garland and Thick stated that they had been lobbied.

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

Councillor Andrews of Headcorn Parish Council (against), Mr Woods, for the applicant, and Councillor Mrs Gibson (against) addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions and informatives set out in the report and the additional conditions set out in the urgent update report.
2. That the details to be submitted pursuant to condition 9 (landscaping) must be reported to the Planning Committee for approval.
3. That the Officers should seek to ensure that the site is tidied.

Voting: 11 – For 0 – Against 1 – Abstention

15. MA/11/1528 - USE OF LAND FOR THE STATIONING OF A MOBILE HOME AND TWO TOURING CARAVANS FOR GYPSY/TRAVELLER FAMILY TOGETHER WITH UTILITY ROOM AND PROVISION OF HARDSTANDING - PLOT 6, THE MEADOWS, LENHAM ROAD, HEADCORN, MAIDSTONE

The Chairman and Councillors Garland and Thick stated that they had been lobbied.

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

Councillor Andrews of Headcorn Parish Council (against), Mr Woods, for the applicant, and Councillor Mrs Gibson (against) addressed the meeting.

RESOLVED:

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

2. That the details to be submitted pursuant to condition 9 (landscaping) must be reported to the Planning Committee for approval.
3. That the Officers should seek to ensure that the site is tidied.

Voting: 12 – For 0 – Against 0 – Abstentions

FURTHER RESOLVED: That the Head of Planning be requested to submit a report to a future meeting addressing the feasibility and implications of the suggestion that landscaping details must be included with all planning applications.

16. 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

All Members except Councillors Ash and Thick stated that they had been lobbied.

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

Mr Miller, an objector, Councillor Charlton of Tovil Parish Council (against) and Mrs Alasadi, the applicant, addressed the meeting.

RESOLVED:

1. That subject to the receipt of a satisfactory Section 106 Unilateral Undertaking or the completion of a Section 106 legal agreement in such terms as the Head of Legal Services may advise to secure the following:-

The completion of the works as proposed in planning application MA/11/1315 and as shown on drawing no. HH:20:10:14:03/A within three months of the date of the grant of permission for application MA/11/1315,

the Head of Planning be given delegated powers to grant permission subject to the conditions and informatives set out in the report, the additional condition set out in the urgent update report, the amendments to these conditions and informatives set out in the urgent update report and the amendment of condition 2 (formerly 3) as follows:-

Within 1 month, a detailed scheme of landscaping shall be submitted for approval by the Local Planning Authority and shall include details of planting to be provided on the south western part of the site and western boundary. The scheme shall be designed using the principles established in the Council's adopted Landscape Character

Assessment and Landscape Guidelines and shall use indigenous mixed native species.

Reason: In the interests of visual amenity and in order to protect the amenity of neighbouring residential occupiers in accordance with policies ENV6, ENV28 and ENV35 of the Maidstone Borough-Wide Local Plan 2000.

2. That in the event of a breach of the Section 106 legal obligation, the Council should take the strongest possible enforcement measures to resolve the breach.

Voting: 9 – For 1 – Against 2 – Abstentions

Note: Having stated that he had pre-determined this application, Councillor Hogg did not participate in the voting.

17. MA/12/0525 - INSTALLATION OF A PUBLIC ARTWORK COMMEMORATING NOLAN AND THE CHARGE OF THE LIGHT BRIGADE - THE TRINITY FOYER, 20 CHURCH STREET, MAIDSTONE

Having disclosed a prejudicial interest, Councillor Newton left the meeting whilst this application was discussed.

The Committee considered the report of the Head of Planning.

Mrs Robson addressed the meeting on behalf of the applicant.

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

Voting: 11 – For 0 – Against 0 – Abstentions

18. MA/12/0616 - ERECTION OF 2 NO. DETACHED CHALET BUNGALOWS INCLUDING NEW VEHICLE ACCESS AND ALL OTHER ASSOCIATED WORKS TO REPLACE EXISTING DWELLING - 8 MANOR CLOSE, BEARSTED, MAIDSTONE

See Minute 6 above.

19. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that:-

- Kate Jardine, Senior Solicitor, had given a very good presentation on probity to Members of the Swale Borough Council Planning Committee.
- The meeting of the Committee originally scheduled to be held at 6.00 p.m. on Thursday 19 July 2012 would coincide with the Olympic Torch celebrations. The meeting had been re-arranged to take place at 6.00 p.m. on Thursday 26 July 2012.

20. 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.

21. DURATION OF MEETING

6.00 p.m. to 7.55 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

7 JUNE 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. Description of Application Date Deferred

(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
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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.

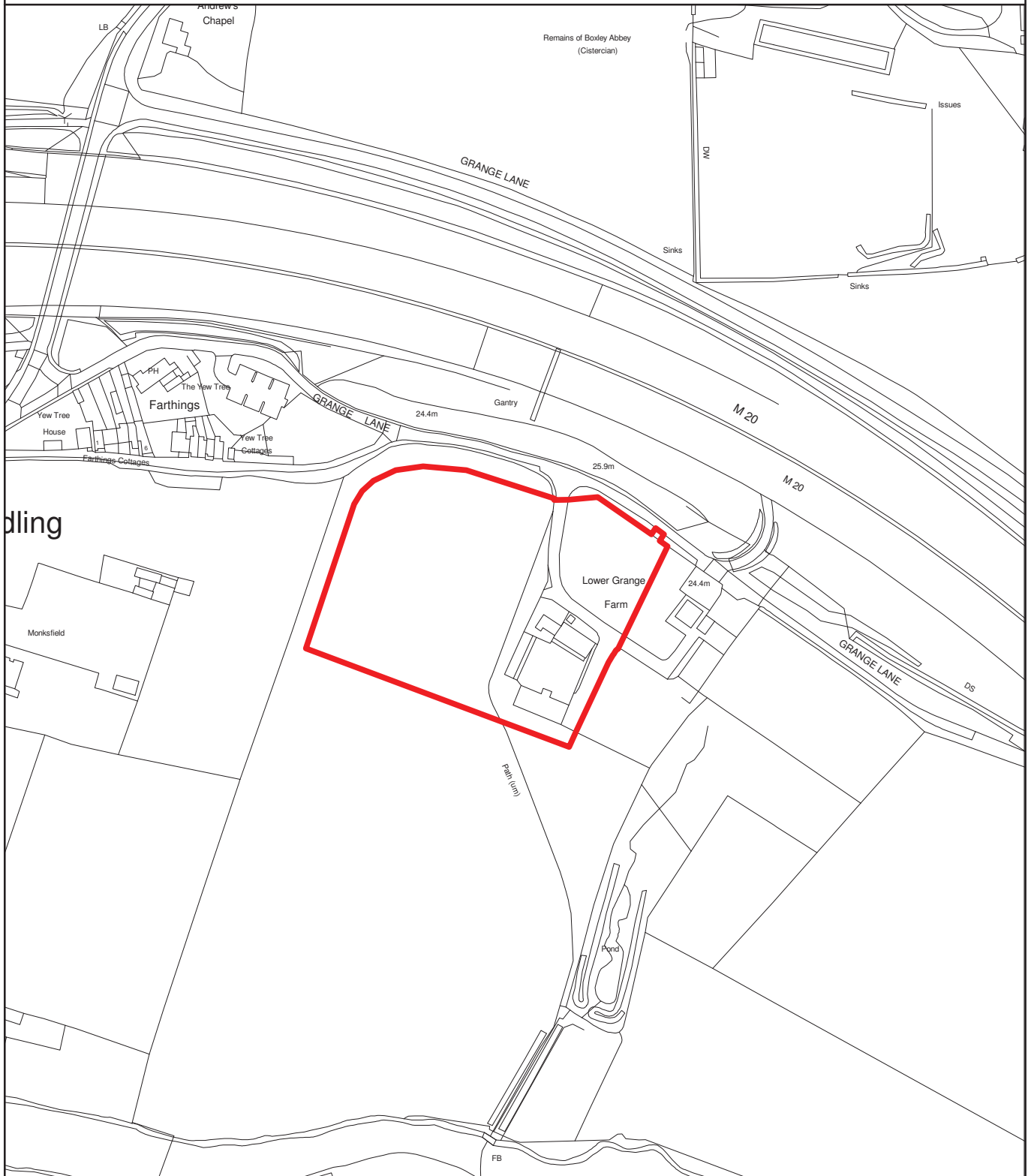
Agenda Item 13

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/2185

GRID REF: TQ7558

WHITE COTTAGE, GRANGE LANE,
BOXLEY.



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Rob Jarman
Head of Planning

APPLICATION: MA/10/2185 Date: 22 December 2010 Received: 30 January 2012

APPLICANT: Kent County Scout Council

LOCATION: WHITE COTTAGE, GRANGE LANE, BOXLEY, MAIDSTONE, KENT, ME14 3DA

PARISH: Boxley

PROPOSAL: Change of use of existing buildings from agricultural/equestrian use to educational and leisure use (County Headquarters for Kent Scouts) with retention of existing residential use of White Cottage for on-site manager, together with associated operational development including extensions and alterations to the existing buildings, erection of new building to house climbing wall and formation of car parking areas as shown on drawing numbers DWG KS-LGFC 103, DWG KS-LGFC 104, DWG KS-LGFC 105, DWG KS-LGFC 106, DWG KS-LGFC 107, DWG KS-LGFC 108, DWG KS-LGFC 109, DWG KS-LGFC 111, DWG KS-LGFC 112, DWG KS-LGFC 116, DWG KS-LGFC 117 and DWG KS-LGFC 118, photographic survey and un-numbered photographs, supported by a planning statement (including statement of community involvement), planning application report (including design and access statement; biodiversity statement; landscape and visual impact assessment; and noise and vibration assessment) ecological scoping and reptile survey and bat and barn owl survey received 22nd December 2010; heritage statement drawing number DWG KS-LGFC 110 rev A received 12th May 2011; drawing number DWG KS-LGFC 115 rev C and transport statement (including framework travel plan and event management strategy) received 30th January 2012; business case (including confidential financial information) received 13th March 2012; email received 14th May 2012; and drawing numbers DWG KS-LGFC 101A, DWG KS-LGFC 102A and DWG KS-LGFC 113A received 16th May 2012.

AGENDA DATE: 7th June 2012

CASE OFFICER: Catherine Slade

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

- it is a departure from the Development Plan

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV26, ENV28, ENV31, ENV34, ENV44, ENV49, T13, T21, T23, CF14
- South East Plan 2009: SP3, CC1, CC4, CC6, T4, T5, NRM9, NRM10, C4, C6, BE6, TSR2, S5, S6, AOSR7
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

- 2.1 The Local Planning Authority has no record of any previous planning history relating to the site.

3. CONSULTATIONS

- 3.1 BOXLEY PARISH COUNCIL: Wish to see the application approved.
- 3.2 MAIDSTONE BOROUGH COUNCIL CONSERVATION OFFICER: Raises no objection to the proposal subject to the imposition of conditions requiring the submission and approval of material samples, details of the junctions between new extensions and original buildings in the form of large scale drawings, and an archaeological watching brief to be undertaken. The officer makes the following detailed comments:

"The site comprises the property formerly known as Lower Grange Farm. As such it has its origins as the "home grange" or farm adjacent to the monastery of Boxley Abbey. Such granges were run very much in the manner of estate farms. Granges are particularly characteristic of the estates of the Cistercian Order, of which Boxley was a member. Granges had two functions – to provide food and raw materials for consumption by the abbey itself, and to provide a surplus for sale for profit. Most monasteries had more than one grange, and different granges often had different functions. At Boxley, the home grange probably specialised in crop production, whilst Boxley Grange (the residential accommodation to which still survives as a listed building) sited on top of the North Downs probably concentrated on livestock, whilst the remote grange at Chingley in the Bewl Valley was an industrial site producing iron.

The site is therefore likely to be of substantial archaeological interest.

The site contains three buildings arranged around a courtyard which it is proposed to link together to form the required facilities. Foremost amongst these buildings is the impressive five-bay aisled barn, which may well survive from monastic days. This barn was radically restored in the 1980s, when it was in very poor condition; the outer timber-framed walls were rebuilt in brick and

much of the roof structure replaced. However, the impressive aisle posts and tie beams survive from the original structure and despite the extensive rebuilding the surviving structure is impressive and retains much historical interest. A large barn such as this would have been the chief characteristic building of an agrarian grange.

The other buildings are of more modest scale and appear originally to have been of mid and late 19th century date; these too have been extensively rebuilt/ repaired, probably at the same time as the barn. The proposal is to link these buildings. The barn remains largely as a single space, with one bay partitioned off to provide toilets and a kitchen; its internal spatial character is therefore largely preserved. The linking structures are frankly modern in their appearance and feature extensive glazed screens and flat "green" roofs. I consider this to be a valid design approach as it allows for the buildings still to be read separately and minimises the impact of the extensions on the complex as a whole.

A further proposal envisages the construction of a new building towards the lane to house a climbing wall. This would be a very tall structure with a very low-pitched roof and would be higher than the barn. Although its distance from the barn would provide reasonable mitigation, it would have some unfortunate impact on its setting.

Extensive areas of car parking are also proposed which will impact on the setting of the barn and also on the character of the open countryside. Substantial planting will be needed to mitigate this impact."

- 3.3 MAIDSTONE BOROUGH COUNCIL ENVIRONMENTAL HEALTH MANAGER: Raises no objection to the proposal subject to the imposition of conditions requiring the investigation and if necessary remediation of site contamination and the submission of a transport related air quality emissions reduction scheme.
- 3.4 KENT COUNTY COUNCIL HIGHWAY SERVICES OFFICER: Raises no objection to the proposal subject to a S278 agreement to secure the necessary highways works to provide passing bays and signage and a financial contribution of £5000 to allow monitoring of the Travel Plan in addition to conditions requiring the provision of and securing parking and cycle storage spaces; the provision of and adequate access; and details of the hanging of entrance gates. The officer makes the following detailed comments:

"Further to my previous consultation response concerning the above named planning application, a Transport Statement, Event Management Strategy and Travel Plan have been submitted which seek to address the concerns raised.

The proposal involves the change of use from agriculture/equestrian to a Scout Headquarters. The gross internal floorspace of the current D2 use is 628m² and this will increase to 1146m²; an increase of 518m².

Access to the site is gained via Grange Lane, an unclassified carriageway of varying width. Two passing bays are proposed along Grange Lane in order to allow 2 cars to pass.

The existing access to the site is to be modified to allow entry only with a new exit only access being provided. Appropriate signing is required within the site at the accesses to advise traffic of the entry and exit arrangements and this should be subject to approval by KENT COUNTY COUNCIL Highways.

Parking

20 cycle spaces are proposed and 95 car parking spaces, including mini bus parking and parking for the mobility impaired. This is over the maximum recommended for D2 use in the Kent & Medway Vehicle Parking Standards (1 space per 22m) which would equate to 52 spaces. A level of parking in excess of these guidelines is appropriate in this instance due to the rural location of the site. The car park will be managed by stewards when events are held, to improve efficiency and prevent parking on the highway.

Traffic generation

Events generating a significant increase in traffic such as the Scout County AGM and the Scout Sectional Fun Day will be held infrequently and are to be managed by the measures in the Travel Plan and Event Management Strategy in order to limit the impact of the traffic associated with the events on the existing highway and to prevent disruption. These measures include pre event registration, event day management, coordination of travel arrangements and the use of minibuses. It has been agreed that due to the narrow and rural nature of the approach roads to this site, that mini buses will be used to transport participants as opposed to coaches.

Boarley Lane, between its junction with Sandling Lane and Grange Lane, is not considered suitable to accommodate any significant increase in traffic due to its narrow width. Traffic will therefore be positively signed along alternative routes and promoted to visitors in advance of events. The routing arrangements will be as follows:

- 1. A229 -Old Chatham Road -Tyland Lane -Boarley Lane -Grange Lane*
- 2. Boxley Road -Grange Lane -Boarley Lane -Grange Lane.*

Subject to the above names highway works (passing bays and signing) being provided as part of a S278 Agreement together with a financial contribution of £5000 for the monitoring of the Travel Plan, to ensure that the targets are met, I have no objection to this application."

- 3.5 KENT COUNTY COUNCIL BIODIVERSITY OFFICER: Raise no objection to the proposal subject to the imposition of conditions requiring the development to be undertaken in accordance with the recommendations of the ecological scoping and reptile survey and bat and barn owl survey received 22nd December 2010 and the submission and approval of details of ecological enhancement, and make the following detailed comments:

"We are satisfied that the submitted surveys have adequately considered the potential for impacts on protected species as a result of the proposed development; the potential for impacts on bats and breeding birds have been identified and the report makes several recommendations.

Bats have been identified roosting within the building. Several recommendations have been for mitigation however at the time that the report was written it was unclear exactly what works would be required.

As a result we require that as a condition of planning permission a detailed bat mitigation strategy is submitted for comments. As part of the mitigation the report details that bat boxes are going to be erected on to the building however it would be preferable if a mixture of raised bat tiles, bat tubes and bricks were also used.

There is suitable habitat present for breeding birds. The recommendations within paragraph 4.2.5 of the ecological scoping and reptile survey must be carried out. If planning permission is granted the implementations of these recommendations must be a condition of planning permission.

Enhancements have been recommended within ecological scoping and reptile survey. A selection of these enhancements must be incorporated in to the proposed development site. Suitable reptile habitat was identified within the edge of the site this area must be enhanced to improve this area for reptiles.

Details of enhancements to be incorporated in to the site must be submitted for comments as a condition of planning permission."

- 3.6 KENT COUNTY COUNCIL PUBLIC RIGHTS WAY OFFICER: Raises objection to the proposal on the grounds firstly that the route of the PROW shown in the application documentation differs from that recorded on the definitive map and

secondly that the route would, as a result of the proposed development, run through a car park rather than across fields.

- 3.7 ENGLISH HERITAGE: Did not wish to comment on the application.
- 3.8 ENVIRONMENT AGENCY: Raise no objection to the proposed development.
- 3.9 NATURAL ENGLAND: Did not wish to comment on the application.

4. REPRESENTATIONS

- 4.1 NEIGHBOURS: One representation was received which supports the application.
- 4.2 KENT WILDLIFE TRUST: Supports the application subject to the implementation of the recommendations for the mitigation, enhancement and compensation of biodiversity impacts set out in the ecological scoping and species survey reports.
- 4.3 COUNCIL FOR THE PROTECTION OF RURAL ENGLAND: Raises no objection to the conversion of the existing buildings and the use of the existing residential property as a manager's flat, but raises concern with regard to the extent of the proposed car parking and the erection of a substantial additional building.

5. CONSIDERATIONS

5.1 Site and Surroundings

- 5.1.1 The proposal site is located in open countryside to the north of the main urban area of Maidstone, immediately to the south of the M20, which in this location is an illuminated and elevated 8 lane carriageway.
- 5.1.2 The site is within the North Downs Special Landscape Area (SLA) and Strategic Gap (SG), but has no other environmental or economic designations in the Maidstone Borough-Wide Local Plan 2000. It is of note that the site is located in close proximity to the southern boundary of the Kent Downs Area of Outstanding Natural Beauty (AONB) which follows the northern side of the M20. In addition, the Cuckoo Wood Local Wildlife Site (LWS) is located approximately 180m to the south of the site.
- 5.1.3 The site comprises buildings and land formerly associated with Lower Grange Farm. The existing buildings are arranged around three side of a courtyard and are located in the south east of the site. They include a substantial 5-bay timber framed barn, a modest single storey 5-stable block and a larger single storey 8-stable block with a single storey dwellinghouse known as White Cottage adjoining the west elevation. All three buildings were the subject of significant

refurbishment works during the 1980s, and none are listed. The three buildings are located in close proximity to each other, but do not physically adjoin.

- 5.1.4 The remainder of the site comprises a field in the western part of the site and an area of open grassland to the north of the existing buildings described in paragraph 5.1.3 above.
- 5.1.5 The land slopes very gently to the south towards the waterway which marks the northern boundary of Cuckoo Wood. The land rises to the south of this stream, and Cuckoo Wood is elevated in relation to the proposal site. The land also rises sharply to the north of the proposal site beyond the M20, forming the North Downs escarpment.
- 5.1.6 There is an existing vehicular access to the site from Grange Lane, an unclassified single-track no-through-road located adjacent to the northern boundary of the site. Grange Lane provides access from Boarley Lane (also an unclassified highway) to the proposal site and a dwellinghouse located immediately to the east of the site. Boarley Lane provides wider access to the A229 via Sandling lane and the Running Horse Roundabout to the south; to the A229 and M20 via Tyland Lane and Chatham Road to the north west; and to the A249 and Maidstone Town Centre via Grange Lane and Boxley Road to the north east.
- 5.1.7 A public right of way, the KH25 footpath runs through the site from north to south, providing a pedestrian connection between Grange Lane to the north and the public footpath network in Cuckoo Wood in the south. The public footpath runs adjacent to the western side of the existing buildings.
- 5.1.8 The nearest residential property to the site is Lower Grange Farm, which is located adjacent to the eastern boundary of the site and shares the vehicular access.

5.2 **Proposal**

- 5.2.1 The application seeks planning permission for the change of use of the land and buildings from agriculture/equestrian use to educational and leisure use (County Headquarters for Kent Scouts) with the retention of existing residential use of White Cottage for an on-site manager and the use of the land in the west of the site for activities associated with scouting such as camping.
- 5.2.2 Operational development required in order to facilitate the proposed change of use includes extensions and alterations to the existing buildings, erection of a new building to house a climbing wall and the formation of car parking areas and a new access to the public highway.

Change of use:

5.2.3 As set out above, the Local Planning Authority has no recorded planning history for the site, however White Cottage is known to have a residential use, and the stables on the land have been there for some time. The current lawful use of the land is therefore considered to be a mixed use of agriculture and the keeping of horses, with the exception of White Cottage. The main proposed use is for scouting activities, formal and informal education, and leisure use which is considered to fall within Use Class D2 (assembly and leisure). The main uses, as set out in the travel plan are for the Scout County AGM; Scout leader training, sectional fun days, jamborees, Scout County executive meetings and Scout weekend and week camps; school day and residential visits; and use of the climbing wall facility. These uses would be supported by an on site manager, for whom the residential use of White Cottage is proposed to be retained. The operational development detailed below would facilitate this change of use.

Alterations to existing buildings:

5.2.4 Alterations are proposed to all existing buildings in order to facilitate their use by Kent Scouts

5.2.5 The key building historically and visually is the barn which is located to the south of the central courtyard. As set out in the Conservation Officer's comments above, this is the dominant building in the group both in terms of its scale and its historic importance. Whilst not listed and significantly altered in the late twentieth century, much of the original timber frame, which is believed to be contemporaneous with Boxley Abbey, remains and the building retains much of its historic interest.

5.2.6 The alterations to this building are limited in extent, and to the exterior are limited to the replacement of an existing window to the west elevation. The large open interior space characteristic of such buildings would be retained, with the exception of the eastern bay, which would be partitioned to provide a kitchen and toilets; in addition inner fire doors would be introduced to the openings to the north and south elevations.

5.2.7 The building located on the west of the central courtyard comprises a single storey stable block divided into 5 stalls with an overhang to the east elevation. The building would be retained with a similar arrangement of the internal space and openings, however the stalls would be converted and upgraded in order to provide 5 dual purpose bed/training rooms.

- 5.2.8 The building located to the north of the courtyard has two elements; a substantial single storey stable block with overhangs to the north and south elevation which provide 8 stalls in a back to back arrangement; and a single storey dwelling with additional accommodation in the roof space which adjoins the west elevation of the more dominant stable building.
- 5.2.9 The proposed development would result in modifications to the ground floor of the stable building in order to provide multi-purpose training, teaching and bunking spaces, as well as offices and stores. The roof space is proposed to be used in order to provide a larger space suitable for larger meetings and conferences. To facilitate this use 4 roof lights are proposed to the north elevation of the building, and internally a stair and lift are proposed to be installed. The proposed uses and internal alterations would result in changes to the arrangement of the external openings to this building, in addition to the roof lights, however these would retain the character of the existing arrangement in terms of their dimensions and number.
- 5.2.10 White Cottage, also located on the north of the courtyard, would be retained partly in residential use for a manager of the site, the first floor providing a self contained 1 bedroom flat. To facilitate this use, an external staircase is proposed to the west of the building. The ground floor of the building would provide stores and offices, as well as a drying room, and would also provide internal access to the adjoining building to the east.
- 5.2.11 In addition to the above, extensions are proposed to the existing buildings in order to provide additional internal space and to connect the buildings. These include the introduction of flat roofed single storey extension which would infill the "corner space" between the large barn and 5-stable block, providing W.C.s and storage space; glazed "internal exterior" spaces which would enlarge the existing overhangs to the north and south elevations of the 8-stable block and the east elevation of the 5 stable block to allow sheltered movement between all three buildings; the provision of a glazed corner of the courtyard adjacent to the 5-stable block and White Cottage to provide a dining area; and the introduction of an enclosed staircase to the east elevation of the 8-stable block and the external staircase to the west elevation of White Cottage referred to in paragraph 5.2.9 above.
- 5.2.12 These extensions would be single storey (with the exception of the external staircase) with a modern appearance and character incorporating flat green roofs. The extensions would be extensively glazed in order to allow natural light to the interior of the buildings with the exception of the proposed toilet block between the barn and 5 stable block, which will have rendered external walls to match the existing stable building. The proposed extensions would in large part

be mainly restricted to the infilling of existing spaces between buildings and small areas of the central courtyard area.

Erection of new building to house climbing wall

5.2.13 The proposal also includes the erection of a new building in the north of the site adjacent to the north site boundary and vehicular access. This building is shown on the submitted drawings as having a width of 18m and a depth of 10.8m, resulting in a footprint of 194.4m. The building would have a ridge height of 11.6m and eaves heights of 11m, resulting in a very shallow roof pitch. The design of the building seeks to maximise the internal space available to accommodate the climbing wall and associated galleries to allow observation and tuition to participants and to enable the facility to be DDA compliant in order to allow less physically able persons to participate in the sport. The building would have a conventional agricultural appearance in respect of its materials, which would comprise grey corrugated sheets to the roof and vertical timber Yorkshire boarding to the elevations. The interior would house two climbing walls, one a training wall to single storey height with observation galleries above at second and third floor levels, and the main wall which would be the full height of the building

Car parking areas and new access

5.2.14 A car parking area would be provided in the north east of the site, between the main group of buildings and Grange Lane. 95 spaces for cars would be provided, as well as an area for minibus parking and 20 cycle parking spaces. A new vehicular access is proposed to the east of the existing access (which would be retained) in order to ensure one way traffic flow within the site. This level of car parking has been achieved as a result of negotiation between the applicant and Maidstone Borough Council and Kent County Council Officers, and represents a substantial reduction in the extent of the car parking originally proposed from in excess of 150 spaces, and restricting its extent to areas to the north and east of the existing buildings.

5.2.15 The car parking areas would be surfaced with grasscrete and would not be fenced or externally lit.

5.2.16 The development currently under consideration is partly retrospective, some works to the existing buildings having already been undertaken, and some scouting activities taking place on the site. Some operational development, including the erection of the building to house the climbing wall, has not yet been undertaken.

5.2.17 The details of the car parking areas, access and travel and transport arrangements are set out in the Transport Statement, Framework Travel Plan and Event Management Strategy by Jacobs dated January 2012 submitted in support of the application.

5.3 **Assessment**

Policy Considerations

- 5.3.1 New development in the open countryside is subject to significant levels of restraint as set out policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 (Local Plan), however an exception to this general presumption is the conversion of existing rural buildings for commercial and recreational uses such as this, as set out in Local Plan policy ENV44, which supports such development, subject to criteria which require that any proposal be assessed in terms of the appropriateness of the building(s) for conversion and of any proposed alterations; the impact on the vitality of the town centre; the highway safety implications including provision of parking within the site; and impact on the surrounding environment and residential amenity of neighbouring occupiers.
- 5.3.2 In addition to the above, the following Development Plan policies are of particular note.
- 5.3.3 The site is located in the North Downs Special Landscape Area (SLA) in which particular attention should be given to the protection and conservation of the scenic quality of the area and priority be given to the landscape over other planning considerations under the provisions of Local Plan policy ENV34.
- 5.3.4 Policies CC1 and CC6 of the South East Plan 2009 seek to achieve sustainable forms of development particularly with respect to the built environment and communities, whilst policy C4 seeks to protect and enhance the diversity and local distinctiveness of the landscape of the open countryside.
- 5.3.5 Policies T13 of the Maidstone Borough-Wide Local Plan 2000 and T4 of the South East Plan 2009 relate to the provision of car parking in new development, whilst Local Plan policy T21 requires new development to be well related to the existing highway network.
- 5.3.6 In addition, policy BE6 of the South East Plan 2009 seeks to require proposals for development to protect, conserve and (where possible) enhance the historic environment.

- 5.3.7 These policies are considered to be in accordance with central government planning policy, as set out in the National Planning Policy Framework 2012 (NPPF).
- 5.3.8 It is my view that the conversion and alteration of the existing buildings for the uses proposed are in accordance with policy ENV44, and therefore acceptable in principle, subject to a detailed assessment of the proposal.
- 5.3.9 There is no Development Plan policy support for the erection of the proposed building to house the climbing wall, which represents new operational development for which there is no overriding justification in open countryside with poor links to public transport which would facilitate a recreational facility normally expected to be located in a more sustainable town centre location, and no demonstration that a sequential approach, as required by Local Plan policy, has been applied. Furthermore the scale of the proposed building is such that it would inevitably have a significant visual impact upon the character and appearance of the SLA, contrary to policy ENV34 of the Local Plan. Therefore, notwithstanding policies S5 and S6 of the South East Plan 2009 which seek to encourage participation in sport, particularly of disadvantaged groups and the provision of community infrastructure, and CF14 of the Local Plan which seeks to support proposals for uses falling within Use Class D2, it is my view that this element of the proposal is contrary to the Development Plan.
- 5.3.10 Notwithstanding this, the proposed climbing wall building would serve, and be intimately related to, the main use which is supported by Development Plan policy. For this reason, in the circumstances of this case I consider that the wider benefit in providing a facility of which there is to my knowledge no alternative in Maidstone which has been specifically designed in order to allow participation by less able members of society, and would be maintained and run by Kent Scouts as part of the larger complex, outweighs the conflict with Development Plan policy caused by the inclusion of this element in the proposal.

Planning Considerations

- 5.3.11 As set out above, the principle of the conversion and extension of the existing buildings is considered to be acceptable, and whilst the erection of the climbing wall building is contrary to Development Plan policies which seek to protect the open countryside and existing town centres, I consider that the exceptional circumstances of this case to outweigh the policy harm.
- 5.3.12 Therefore, it is my view that the key considerations (setting aside principle of the development, which is discussed above) to be the design and visual impact of the proposed development and highway safety and public rights of way (PROW) issues.

Design and visual impact

- 5.3.13 The proposed conversion works are considered to be respectful of the original buildings, retaining the main features of interest and the overall character and appearance of the built development on the site. Of note are the limited alterations to the barn, which seek to minimise the visual impact of the change of use whilst retaining the internal space and what remains of the historic fabric of the building.
- 5.3.14 Whilst the proposed extensions are modern in design and appearance, they are considered to be well related to the existing building, reflecting the historic layout of the site and being restricted in scale so as to be subservient to the main buildings. This is supported by the comments of the Maidstone Borough Council Conservation Officer, who raises no objection to the proposal, subject to the imposition of conditions requiring the submission and approval of details of materials and large scale drawings of the junctions between the existing buildings and proposed extensions. These conditions are considered in the circumstances of this case to be reasonable and necessary in order to secure the character and appearance of the development and to secure the historic and architectural interest of the existing undesignated heritage assets closely linked with Boxley Abbey.
- 5.3.15 The car parking area to the north of the converted buildings, whilst extensive, will be surfaced in grasscrete, thereby allowing vegetation to colonise less well used areas whilst allowing infiltration of surface water. The use of this material will therefore reduce the visual impact of the hard surface whilst preventing surface water flooding. For this reason the visual appearance of the car parking areas is considered to be acceptable in the circumstances of this case.
- 5.3.16 The scale and visual bulk of the proposed climbing wall building are such that this element of the proposal would have a significant visual impact, and would be clearly visible in public views of the site from the public footpath which runs through the centre of the site, from the north from the M20 and in longer distance views from the Pilgrims Way, and also from the south from the footpath adjacent to Cuckoo Wood.
- 5.3.17 In mitigation, notwithstanding the scale of the building, which is a direct function of its proposed use, the overall design of the building is considered to be acceptable, having the appearance of a conventional agricultural building, albeit on a substantial scale, and it is considered that the colouring and materials to be utilised as well as the overall character of the building would be appropriate to its rural setting. Also, the proposed building is well grouped with the existing buildings on site, and would be seen in that context, rather than as

a new isolated development in the open countryside. Furthermore, the building is located in close proximity to the M20 which is elevated and illuminated in this location, and has some existing tree growth to the southern embankment (albeit intermittent). The building would be seen against the motorway which would provide some screening of views of the building in longer range views from the north. No external lighting is proposed as part of the application, however in order to secure the appearance of the development and the open countryside, notwithstanding the close proximity of it to the M20, it is considered necessary to impose a condition restricting such installations.

5.3.18 For these reasons, I consider that whilst the proposed climbing wall building would have a significant impact in public views of the site, the mitigating factors set out above and the wider benefits of the provision of the facility in close proximity to the Scout Headquarters are such that the visual impact of the development would be acceptable, subject to the conditions set out above.

Highway safety and public rights of way (PROW) issues

5.3.19 The relationship of the site to the surrounding highway network is set out in paragraph 5.1.6 above. Although the site is located in close proximity to a number of major roads, access is via unclassified highways of varying width, and the Kent County Council Highways Engineer has observed that parts of the surrounding road network are not considered suitable for accommodating any increase in traffic.

5.3.20 A Transport Statement, Framework Travel Plan and Event Management Strategy prepared by Jacobs has been submitted in support of the application, which includes measures to limit the impact of the proposed use of the site on the surrounding roads. These include the introduction of directional signage to restrict the use of such roads and ensure that traffic to and from the site is routed either via (i) A229 – Old Chatham Road – Tyland Lane – Boarley Lane – Grange Lane or (ii) Boxley Road – Grange Lane – Boarley Lane – Grange Lane. This arrangement is similar to that currently in place for Tyland Barn, the headquarters of the Kent Wildlife Trust.

5.3.21 The document also sets out the details of the introduction of the additional vehicular access to the site which will allow a one way flow of vehicles within the site boundary and allow greater control over traffic flows down Grange Lane; an event management strategy for controlling traffic flows resulting from individual events; the introduction of 2 passing bays to Grange Lane; and the introduction of signage within the site to advise of the entry and exit arrangements. In addition, the publicity material of Kent Scouts will include details of vehicular approaches to the site and seek to encourage alternative modes of transport including cycling and walking to the site.

- 5.3.22 Subject to the applicant entering into a S278 Agreement with Kent County Council Highway Services in order to secure the proposed works to the highway (being the introduction of passing bays and signage) and the imposition of conditions securing the standard of the new vehicular access and requiring the position and hanging any gates to be suitable and not detrimental to highway safety, no objection is raised to the proposal. A contribution of £5000 has been requested by Kent County Council Highway Services to allow monitoring of the Travel Plan. However, as compliance can be secured by means of a planning condition, I consider that the suggested contribution is not necessary to make the development acceptable in planning terms, and is therefore not in accordance with S122 of the Community Infrastructure Levy Regulations 2010.
- 5.3.23 In respect of the on site parking provision, the engineer states that the level of provision is in excess of Kent County Council standards, but that the relatively remote location (in respect of public transport alternatives) is such that no objection is raised in this regard, subject to a condition securing parking and cycle storage areas. I concur with this assessment.
- 5.3.24 On the grounds set out above, it is considered that no objection to the proposal is raised on the grounds of highway safety or parking provision.
- 5.3.25 Concern has been raised by the Kent County Council PROW Officer in respect of the impact of the development on the KH25 footpath in so far as the route of the footpath would, as a result of the proposed development, run through a car park rather than across fields, as is currently the case. It is my view that whilst the surface over which the footpath would run would be altered as a result of the proposal, its course would not as such be impeded and would not be significantly less attractive, and therefore there is no objection to the proposal on this ground. The Officer has, however, suggested that an application be made to Kent County Council to divert the footpath to the west of the car parking area, and has implied that this would be likely to be considered favourably given the limited alterations to the definitive route which would result.
- 5.3.26 Whilst it has been observed that the route of the PROW shown in the application documentation differs from that recorded on the definitive map, it is not considered that this is material to the consideration of the application. These matters can be dealt with by way of appropriate informatives.

Landscaping and ecology

- 5.3.27 There is some existing landscaping in the form of hedgerows to the north, west and east boundaries of the site, and to the north of the site beyond the vehicular access is a small area of trees which serves as a visual barrier to the south of

the M20, albeit limited in its extent and absent to the north east of the site. There are no trees of any significance on the site itself. The southern boundary of the site is marked by a post and rail fence, and as such this aspect of the site is open to views from the south, including the public footpaths associated with Cuckoo Wood.

5.3.28 The application documentation refers to various landscaping proposals for implementation during the operational phase of the development, however no detailed landscaping scheme has been submitted in support of the application. It is considered that there is significant scope for improving the site, both visually and in terms of biodiversity, whilst achieving screening of the car parking area and softening the appearance of the new build element of the proposal and screening the site from public views from the M20 and PROWs to the north and south of the site. As such landscaping conditions should be imposed requiring the submission and approval of a suitable landscaping scheme devised in accordance with the Maidstone Borough Council Landscape Character Assessment 2012 in consultation with Maidstone Borough Council Landscape Officers which should include trees to the northern boundary of the site, and the subsequent implementation of the approved scheme.

5.3.29 The use of green walls to the elevations of the climbing wall building has been discussed with the applicant, and whilst conventional systems have been discounted for reasons of cost and the additional weight that would have to be borne by the structure, the applicant has indicated that work is ongoing on developing "local plugs", and it is considered that these can be required to be incorporated into the landscaping scheme condition.

5.3.30 With regard to matters of ecology, the applicant has submitted an ecological scoping and reptile survey and bat and barn owl survey which indicate that the proposal would have no significant detrimental impact upon ecological assets and suggests mitigation methods to be incorporated into the development. The Kent County Council Biodiversity Officer raises no objection to the application on the grounds of the information provided subject to the imposition of conditions, as set out in the comments above, and therefore it is considered that there is no objection to the proposal on these grounds, subject to the recommended conditions.

Residential Amenity

5.3.31 A residential property, Grange Farmhouse, is located in close proximity to the site. The curtilage adjoins the site and the dwelling is located approximately 20m to the south west of the site boundary. However, it is not considered that the proposal would give rise to harm to the residential amenity of the occupiers of

the dwelling in respect of loss of light, privacy or outlook, by virtue of the relationship between the dwelling and the proposed development.

- 5.3.32 The proposal would result in increased traffic to the site, as set out in the Transport Statement, however the Travel Plan submitted in support of the application seeks to minimise vehicle movements and traffic congestion, and the expected levels of use set out in the document indicate that significant levels of disturbance associated with traffic will be restricted to a limited number of events per annum. The direct impact on the occupiers of Grange Farmhouse will be limited in terms of vehicle movements as the traffic will not reach as far as the property. Although 24 car parking spaces are located adjacent to the site boundary with the residential property, these spaces are relatively peripheral in the context of the site parking provision and therefore it is likely that this area of parking would only be used sporadically during larger events. Although traffic directions will result in traffic being directed via the small area of built development associated with the Yew Tree public house (which includes 11 dwellinghouses in addition to the pub) located at the junction of Grange Lane and Boarley Lane to the west of the site, traffic would pass to the north of the buildings, and as such would be screened from the residential properties by the public house and garden land.
- 5.3.33 Whilst it is expected that a certain level of ambient vocal noise might be expected as a result of the use of the premises by groups of Scouts and affiliated parties, this is likely to be largely restricted to the interior spaces. Whilst some outdoor activities may cause some disturbance in this regard, this is likely to take place in the camping field to the west of the site which is separated from nearby dwellings by field boundaries as well as existing and proposed buildings which will provide some level of acoustic screening.
- 5.3.34 Also, it is of note that the site is located in close proximity to the M20 which is one of the busiest public highways in the Borough, and as such any additional noise disturbance will be heard in the context of a fairly constant background of vehicle traffic which is ongoing 24 hours a day. Furthermore, the Council's Environmental Health Manager has raised no objection to the proposal in this regard. Notwithstanding the above, if noise levels resulting from the proposed use are such that a statutory noise nuisance was to result, this would be dealt with under separate environmental health legislation under the provisions of the Environmental Protection Act 1990.
- 5.3.35 Notwithstanding this, it is considered that the use of amplified music in external areas would potentially result in significant disturbance, and a condition should be imposed preventing such occurrences. It is not considered reasonable, given the proposed uses, to prohibit all external amplification as it is likely that some kind of tannoy system may be required in relation to larger scouting events.

5.3.36 For these reasons it is not considered that the proposal would result in harm to residential amenity, subject to the condition set out above.

Other matters

5.3.37 The site is known to have architectural and archaeological interest, and as such the Council's Conservation Officer has requested that a condition be imposed requiring an archaeological watching brief to be undertaken during building works. Given the close historic relationship of the site with Boxley Abbey, the age and status of the barn and the known presence of a former oasthouse within the site (albeit demolished), I consider this condition to be reasonable and necessary.

5.3.38 A detailed ecological scoping report and species specific reports for bats, owls and reptiles have been submitted and no objection is raised to the development in this regard, subject to a condition requiring the development to be undertaken in accordance with the recommendations for mitigation and enhancements as set out in the reports.

5.3.39 The Council's Environmental Health Manager has raised no objection to the proposal subject to the imposition of a standard contaminated land condition and a condition requiring the submission of a transport related air quality emissions reduction scheme. In respect of the former, this is considered to be reasonable and necessary in light of the site's former agricultural use, and the fact that elements of the uses proposed include (albeit short term) residential occupiers by "sensitive receptors" or children. With regard to the latter, I consider that this has been adequately covered in the Transport Statement, and therefore that there is no need for the imposition of such a condition. The Travel Plan will also seek to reduce traffic generation and thus have an impact on air quality.

5.3.40 In view of the activities proposed on site, which include camping and overnight and multiday stays by appropriate groups, it is not considered reasonable in this case to impose an hours of operation condition.

5.3.41 As set out in paragraph 5.2.16 above, the application is partly retrospective and as such in order to allow the conditions imposed to be enforceable they are time limited rather than restricted by commencement of the development. Although normally a period of between 3 and 6 months would be imposed for the submission of the relevant details, in this case the applicant has requested that the period be greater, as submission and implementation is dependent on funding, which is unlikely to be formally secured within these timescales. In light of these circumstances I consider that periods of 12 months are acceptable and appropriate, whilst meeting the tests for conditions.

6. CONCLUSION

- 6.1 I therefore recommend to Members that planning permission be granted subject to the following conditions.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to 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. Within twelve months of the date of this decision written details and samples of the materials to be used in the construction of the external surfaces of the development and areas of hard surfacing hereby permitted shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to secure the character and appearance of the undesignated heritage assets and open countryside in accordance with policies ENV28, ENV34 and ENV44 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE6 of the South East Plan 2009, the Kent Design Guide 2009 and the National Planning Policy Framework 2012.

3. Within twelve months of the date of this decision details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the junctions between the existing buildings and the approved extensions shall be submitted for approval in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to secure the character and appearance of the undesignated heritage assets and open countryside in accordance with policies ENV28 and ENV44 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE6 of the South East Plan 2009, the Kent Design Guide 2009 and the National Planning Policy Framework 2012.

4. The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow them to observe the excavation and record items of interest and finds. The developer will inform the County Archaeological Officer of the start date of construction works on site not less than two weeks before the commencement of such works;

Reason: To enable the examination and recording of any items of historical or archaeological interest in accordance with the National Planning Policy Framework 2012.

5. Within twelve months of the date of this decision a scheme of landscaping, using indigenous species which shall include indications of all existing trees, hedgerows and boundary planted areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and a programme for the scheme's long term management shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include, inter alia, tree planting to the northern boundary of the site and hedge planting to the south, east and west boundaries of the site, and the introduction of 'local plugs' to the climbing wall building. The approved protection measures shall be implemented 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;

Reason: To safeguard existing landscaping to be retained, ensure a satisfactory setting and external appearance to the development, and secure the character and appearance of the undesignated heritage assets in accordance with policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6, and BE6 of the South East Plan 2009, the Kent Design Guide 2009 and the National Planning Policy Framework 2012.

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

Reason: To safeguard existing landscaping to be retained, ensure a satisfactory setting and external appearance to the development, and secure the character and appearance of the undesignated heritage assets in accordance with policies

ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6, and BE6 of the South East Plan 2009, the Kent Design Guide 2009 and the National Planning Policy Framework 2012.

7. The recommendations of the Transport Statement, Framework Travel Plan and Event Management Strategy by Jacobs dated January 2012 shall be strictly adhered to in the implementation of the permission hereby granted and the development operated in accordance with the approved Transport Statement thereafter;

Reason: To safeguard the safety of the surrounding highway network in accordance with policies ENV44 and T21 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012.

8. Within twelve months of the date of this decision the parking/turning areas and cycle storage areas shall be completed and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policies T13 of the Maidstone Borough-Wide Local Plan 2000 and T4 of the South East Plan 2009, and the National Planning Policy Framework 2012.

9. The access details shown on approved plan DWG KS-LGFC 115C received 30th January 2012 and shall be maintained in accordance with the approved details thereafter;

Reason: To safeguard the safety of the surrounding highway network in accordance with policies ENV44 and T21 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012.

10. If gates are to be erected across the vehicular accesses they shall be shown sited no less than 5.5m from the carriageway and hung so they open away from the highway and maintained thereafter;

Reason: To safeguard the safety of the surrounding highway network in accordance with policies ENV44 and T21 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012.

11. Within twelve months of the date of this permission:

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

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

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

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Reason: To prevent harm to human health and pollution of the environment in accordance with the National Planning Policy Framework 2012.

12. The recommendations of the Ecological Scoping and Reptile Survey dated 18th July 2010 and Bat and Barn Owl Survey dated 14th July 2010, which include the adoption of best working practices, shall be strictly adhered to in the implementation of the permission hereby granted;

Reason: To safeguard the ecological and biodiversity assets of the site and surrounding habitat, in accordance with the National Planning Policy Framework 2012.

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

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

14. Within 12 months of the date of this decision, the passing bays and highway signage detailed in paragraphs 3.2.1 and 4.1.2 of the Transport Statement, Framework Travel Plan and Event Management Strategy by Jacobs dated January 2012 shall be completed and operational;

Reason: In the interests of securing road safety in accordance with policy T21 of the Maidstone Borough-Wide Local Plan 2000, and the National Planning Policy Framework 2012.

15. No amplified music shall be relayed outside the building;

Reason: In the interests of safeguarding the amenity of local residents in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012.

16. Within 12 months of the date of this decision details of the enhancement measures set out in the ecological scoping and reptile survey and bat and barn owl survey received 22nd December 2010, which shall include, inter alia, a bat loft within the roof space of the former 5-bay stable building, shall be submitted to and approved in writing by the Local Planning Authority; the development shall be implemented in accordance with the approved details;

Reason: Reason: To safeguard the ecological and biodiversity assets of the site and surrounding habitat, in accordance with the National Planning Policy Framework 2012.

Informatives set out below

The application states that foul drainage is to discharge to a cess pit. It must be ensured that this is fully sealed and therefore watertight, and also be fitted with a level warning device to indicate when the tank needs emptying. It is important that this is ensured, as the site lies within a vulnerable groundwater protection area.

If it is determined that the foul drainage in fact discharges to ground/ watercourse/pond etc, then the Environment Agency will need to be re-consulted on this application, and an application for either an environmental permit or an

exemption would need to be made in accordance with the Environmental Permitting (England and Wales) Regulations 2010.

The applicant should be aware that a public right of way must not be stopped up, diverted, obstructed or the surface disturbed and there must be no encroachment on the current width, at any time now or in future. This includes any building materials or waste generated during any of the construction phases. Please note that no furniture or fixtures may be erected on or across Public Rights of Way without the express consent of the Highways Authority. Please contact the KCC PROW Officer on 01732 872 829 to discuss the diversion of the KH25 to prevent any conflict between the definitive path and the proposed car parking areas.

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 Environmental Health Manager regarding noise control requirements.

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

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

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

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

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

The applicant is advised to seek advice from the Council's Landscape Officer prior to submission of the details required by condition 5 above.

The applicant is advised that a S278 agreement or other suitable legal mechanism should be entered into with Kent County Council Highway Services in order to secure the provision of the passing bays and signage required by condition 14 above.

Although the proposal to erect a new building to house a climbing wall for which there is no policy or other justification within the open countryside in an unsustainable location is contrary to the Development Plan, it is considered that the close relationship of the building and its purpose to the conversion of the existing buildings to provide the Kent County Scout Headquarters and the community benefits that would accrue from the development as a whole are such that they are considered to override the normal presumption against new development in the countryside for which there is no overriding policy or other justification contained in the Development Plan (Maidstone Borough-wide Local Plan 2000 and South East Plan 2009).

Item 13, Page 8
MA/10/2185:

Address
WHITE COTTAGE, GRANGE LANE,
BOXLEY, MAIDSTONE, KENT, ME14
3DA

I wish to amend the wording of conditions 9, 10 and 15 as follows:

Condition 9

The access shall be constructed in accordance with the approved details shown on plan DWG KS-LGFC 115C received 30th January 2012 and shall be maintained in accordance with the approved details thereafter;

Reason: To safeguard the safety of the surrounding highway network in accordance with policies ENV44 and T21 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012.

Condition 10

Any gates erected across the vehicular accesses shall be sited no less than 5.5m from the carriageway and open away from the highway and maintained as such thereafter;

Reason: To safeguard the safety of the surrounding highway network in accordance with policies ENV44 and T21 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012.

Condition 15

No amplified music shall be played outside the building other than in accordance with any other written consent granted by the Council;

Reason: In the interests of safeguarding the amenity of local residents in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012.

Recommendation:

My recommendation remains unchanged.

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29.05.2012

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KENT SCOUTS

BOYS' LIFE

BOYS' SCOUTS OF AMERICA

29.05.2012

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WIKIS POSTAGE
LOWER GRANGE FARM.



29.05.2012

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29.05.2012

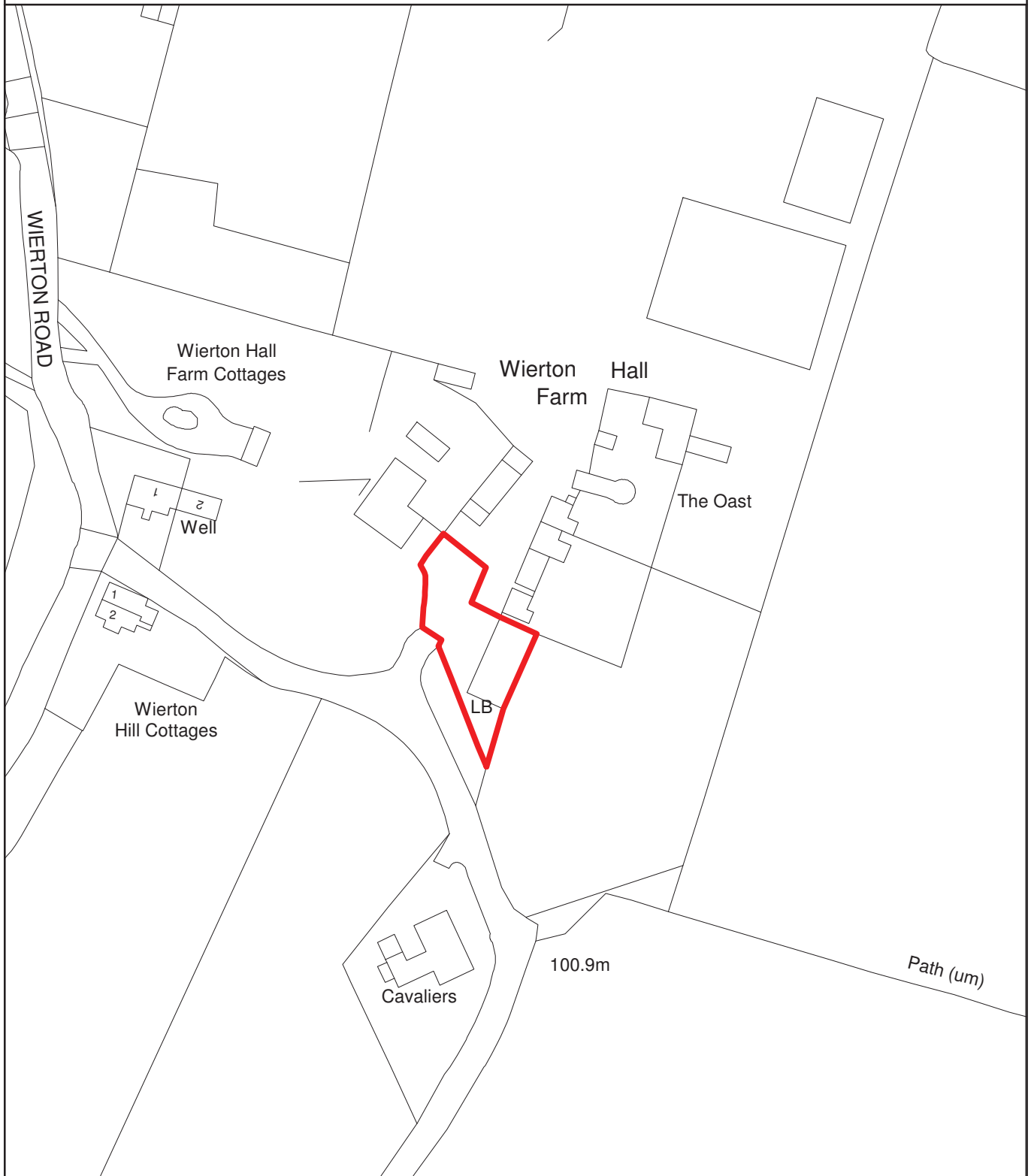
Agenda Item 14

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1352

GRID REF: TQ7849

WIERTON HALL FARM, EAST HALL HILL,
BOUGHTON MONCHELSEA.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/1352 Date: 10 August 2011 Received: 10 August 2011

APPLICANT: Mr Richard Curteis, Aspen Tree Services

LOCATION: WIERTON HALL FARM, EAST HALL HILL, BOUGHTON MONCHELSEA, MAIDSTONE, KENT, ME17 4JU

PARISH: Boughton Monchelsea

PROPOSAL: Retrospective application for the change of use of existing farm yard and buildings to be used for storage and maintenance of agricultural vehicles and machinery in connection with a forestry business as shown on plan numbers 1 (site location plan), 2 (block plan) and application form received 10th August 2011 and supporting statement received 4th January 2012.

AGENDA DATE: 7th June 2012

CASE OFFICER: Kevin Hope

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

- The application has been called in to the committee by Cllr Fitzgerald

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV44
- South East Plan 2009: CC1, CC6, C4
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

2.1 **ENF/9119** - Tree surgeon contractors business – Planning application invited.

MA/08/2301 - Erection of 1 No. dwelling and detached garage – Withdrawn.

MA/09/1335 - Demolition of existing barn and the erection of 1 No. dwelling and detached garage – Refused (Dismissed at appeal).

MA/81/0512 - Extension of farm cottage into existing stable and hayloft – Approved with conditions.

3. CONSULTATIONS

3.1 **Boughton Monchelsea Parish Council** – Do not wish to object/comment

3.2 **Conservation Officer** – Raised no objections with the following comments:-

"The change of use has had no significant impact on the setting of adjacent listed buildings".

3.3 **KCC Highways Officer** – Raise no objections with the following comments:-

"I refer to the above planning application and have no objections to the proposal in respect of highway matters".

4. REPRESENTATIONS

4.1 Councillor Fitzgerald called the application to the planning committee with the following comments:-

"I am concerned about this retrospective application that has been the subject of enforcement issues and of great concern locally. Forestry is not Agriculture in planning terms and if you were of a mind to approve this I would ask that it is determined by Committee".

4.2 Three neighbour representations have been received raising the following points:-

- Noise created from business activity
- Pollution from vehicles
- Traffic generation
- The suitability of the use in this location
- The hours of operation

One application has been received in support of the application.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located within the open countryside off the north side of East Hall Hill. The site comprises a yard with an open-fronted barn of corrugated

iron sheeting on its east side with vehicle parking to the front and western side of the yard. There is an entrance directly on to East Hall Hill to the front of the site providing access to the site. The barn and yard area were formally associated with Wierton Hall Farm which included a small number of buildings to the north and north west. Further on is a pair of semi-detached cottages and a converted oast beyond that. To the west of the yard, and separate from it, is the Grade II listed Wierton Hall.

5.1.2 The site does not lie within countryside designated under the Maidstone Borough Wide Local Plan 2000. The site lies within the ward and parish of Boughton Monchelsea.

5.2 Proposal

5.2.1 Retrospective planning permission is sought for the change of use of existing farm yard and buildings to be used for storage and maintenance of agricultural vehicles and machinery in connection with a forestry business. For clarification, the business does not comprise the management of a specific woodland but offers tree surgery services within the surrounding area.

5.2.2 The buildings subject to this application comprise an open fronted barn and an enclosed and clad storage building. Both of these buildings are sited on the east side of the site. The buildings are used for the storage of forestry equipment including a tractor used for tree works, wood chippers, chainsaws etc. An open yard extends to the front of these buildings and provides additional storage space for other machinery including a small lorry used for tree surgery works. On the western side of the site there is also an area for parking of staff vehicles. This area including the buildings subject to this application are adjacent to the property occupied by the applicants being the farmhouse associated with the former farm.

5.2.3 This planning application has been submitted as a result of an enforcement investigation at this site for the operation of a tree surgery business (ENF/9119). The use of the site in association with the forestry business begun in May 2006 and has continued since this date. Following this enforcement investigation it was considered that a change of use has occurred at this site and the submission of this planning application was invited to regularise the change of use.

5.2.4 To provide some context to the proposal, prior to the ownership of the applicant, the site was used as a farm workshop and for commercial cold storage of fruit. This fruit was bought from neighbouring farms, and was stored for resale to be used in the making of cider. This involved regular commercial vehicle deliveries and collections in connection to this activity.

5.3 Principle of Development

- 5.3.1 With regard to the principle of this development, the relevant policies which apply within the Maidstone Borough Wide Local Plan 2000 are ENV28 which aims to conserve the character and appearance of the countryside and policy ENV44 which aims to secure the appropriate reuse of existing agricultural buildings. Policies CC1, CC6 and C4 of the South East Plan 2009 concerning the sustainable development, the character of the environment and the management of the countryside are also applicable in this case.
- 5.3.2 The principle of this type of development is also discussed within the National Planning Policy Framework 2012 which states that:-
- 5.3.3 *Support should be given to the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;*
- 5.3.4 I therefore consider that the broad principle of this development is established within the policies and planning guidance as outlined above. This proposal will therefore be considered in accordance with criterion of these policies below.

5.4 Visual Impact and suitability of use

- 5.4.1 In terms of the visual impact of the proposed development, there are no external works proposed to the buildings. With the introduction of no other built form, the additional visual impact of this development would be minimal. It is acknowledged a number of vehicles and equipment would be stored at this site, however, this would be the same in a rural area with machinery associated with the working of the land and was the same with the previous agricultural use of the site. Whilst this is not an agricultural use, I do not consider that presence of machinery for this purpose is detrimental to the rural character of this area.
- 5.4.2 I consider the subject forestry business to be an appropriate reuse of the building in this location providing economic activity and employment opportunities within this area.
- 5.4.3 I therefore consider that this element of the proposal complies with the relevant provisions of the policies above. As such, I do not consider that the location of a business of this type is a rural location such as this would be inappropriate and I do not consider that this proposal would result in any significant detrimental visual harm within this area.

5.5 Highways

- 5.5.1 With regard to highway matters, the applicant has confirmed that on average the forestry workers, (which would comprise 4 full time and 1 part time workers increasing from 3 full time currently), arrive at the site between 06:30 and 07:00. The forestry vehicles then depart from the site between 07:00 to 07:30am to attend forestry work throughout the surrounding area. The vehicles then return to the site between 15:00 and 16:00pm. At this point the machinery and vehicles are off loaded with equipment and some machinery stored in the barn. The forestry vehicles are then parked to the front of the barn. During the day between these times, there is little activity at the site with some machinery maintenance carried out by the applicant as needed. The applicant has confirmed that the forestry business operates Monday to Friday at these times and occasionally on Saturdays. The KCC Highways Officer has been consulted as part of this planning application with regard to the traffic generation by this development. No objections have been raised with regard to the traffic generation or highway safety and I therefore consider that this development would not result in significant detrimental harm to the access and local road system.
- 5.5.2 In addition to the traffic generated in relation to the subject forestry business, there is a right of way through the site to access the nursery business to the rear of the site. This involves 3 commercial vans which deliver and collect supplies throughout the day. Therefore, not all of the traffic generation from this site relates to the subject forestry business.

5.6 Sustainability

- 5.6.1 With regard to sustainability, whilst the many of the employees of the business travel to the site by car and park on site, the applicants, who are the owners of the business, live in Wierton Hall Farm which is a semi detached cottage sited adjacent to the buildings subject to this proposal. This increases the sustainability of the business and reduces further travelling which would be necessary should the storage of equipment and machinery be sited in an alternative location. This also assists in providing security at the site and reduces the need for further security infrastructure which may be required at an alternative site. The guidance contained within the National Planning Policy Framework 2012 supports the growth of sustainable businesses within rural areas which provide an appropriate reuse of an agricultural building and I consider that this proposal fulfils this providing sustainable rural economic growth.

5.7 Neighbouring amenity impact

5.7.1 With regard to the impact of the development upon neighbouring amenity, a number of neighbour objections have been received raising concerns relating to this proposal. This includes the impact of noise, pollution and disturbance generated from the level of traffic movements at the site upon the amenity of neighbours. Within the last year, complaints have been reported to the Council's Environmental Health department on a number of occasions with respect to these issues. These have been investigated and determined that any disturbance created is not at a level which would warrant action under Environmental Health legislation. The traffic movements at the site have not significantly changed in this time and I therefore consider that this is not at a level which would have a significant detrimental impact upon the amenity of the surrounding neighbours. If the intensity of the traffic movement, level of noise/pollution increases then action may be possible under Environmental Health legislation. Similarly, I do not consider that the current hours of use are unacceptable or causing significant harm to neighbouring amenity, although a condition should be imposed to ensure that suitable hours of use are maintained.

5.7.2 In addition to this, the applicant has stated that no treatment works or cutting of trees or wood is carried out within the site. Instead, these works are carried out at a small yard nearby on Back Lane where there is no storage provision for the machinery and equipment of the business. A condition will also be imposed to secure that works of this type are not undertaken on site in order to preserve amenity.

6. **CONCLUSION**

6.1 To conclude, for the reasons stated above, I consider that the forestry business for which retrospective planning permission is sought is acceptable and in accordance with the relevant provisions of the Development Plan. With no overriding matters that would otherwise warrant a refusal, I recommend conditional approval of the application on this basis.

7. **RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. Any activity in connection with the forestry business, including the movement of vehicles shall only take place between the hours of 7am and 16:30pm on Mondays to Saturdays and at no point on Sundays, Bank and Public Holidays without the prior written agreement of the Local Planning Authority.

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers in accordance with policies ENV28 and ENV44 of the Maidstone Borough-Wide Local Plan 2000, policies C4 and CC6 of the South East Plan 2009 and the guidance contained within the National Planning Policy Framework 2012.

3. No power driven tools or machinery associated with the forestry business hereby permitted shall be used within the confines of the application site;

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers in accordance with policies ENV28 and ENV44 of the Maidstone Borough-Wide Local Plan 2000, policies C4 and CC6 of the South East Plan 2009 and the guidance contained within the National Planning Policy Framework 2012.

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

Plan numbers 1 (site location plan), 2 (block plan) and application form received 10th August 2011 and supporting statement received 4th January 2012.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with policies ENV28 and ENV44 of the Maidstone Borough-Wide Local Plan 2000, policies C4 and CC6 of the South East Plan 2009 and the guidance contained within the National Planning Policy Framework 2012.

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

Representation

A neighbour representation has been received raising a number of issues with regard to the development proposed under this application. These comments include the impact of the development upon the neighbouring listed building Wierton Hall, the impact upon the existing highway, the machinery used by the business and the use of them.

Officer Comment

I consider that these issues have been responded to throughout the published committee report and I have nothing further to add.

Comments were also raised with regard to the description of development in that the operating business is a tree surgery business not a forestry business as it does not involve the management of woodland. Description and clarification of the business use is detailed under section 5.2 of the committee report.

In addition to this and with regard to condition 2 of the recommendation, following discussions with the applicant, comments have been raised that the wording of condition 2 restricting the hours of use from 7am to 16:30pm is unreasonable. This is for the reason that the business does on occasion carry out works some distance away. Therefore, to allow sufficient time for travel returning from places of work, the condition shall be amended to 7am to 17:30pm. This will therefore ensure that the protection to neighbouring amenity is maintained.

Recommendation

I therefore amend condition 2 as follows:-

The movement of vehicles within the application site shall only take place between the hours of 7am and 17:30pm on Mondays to Saturdays and at no point on Sundays, Bank and Public Holidays without the prior written agreement of the Local Planning Authority.

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers in accordance with policies ENV28 and ENV44 of the Maidstone Borough-Wide Local Plan 2000, policies C4 and CC6 of the South East Plan 2009 and the guidance contained within the National Planning Policy Framework 2012.

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LAND-ROVER
Matford
EXETER

DISCOVERY 4
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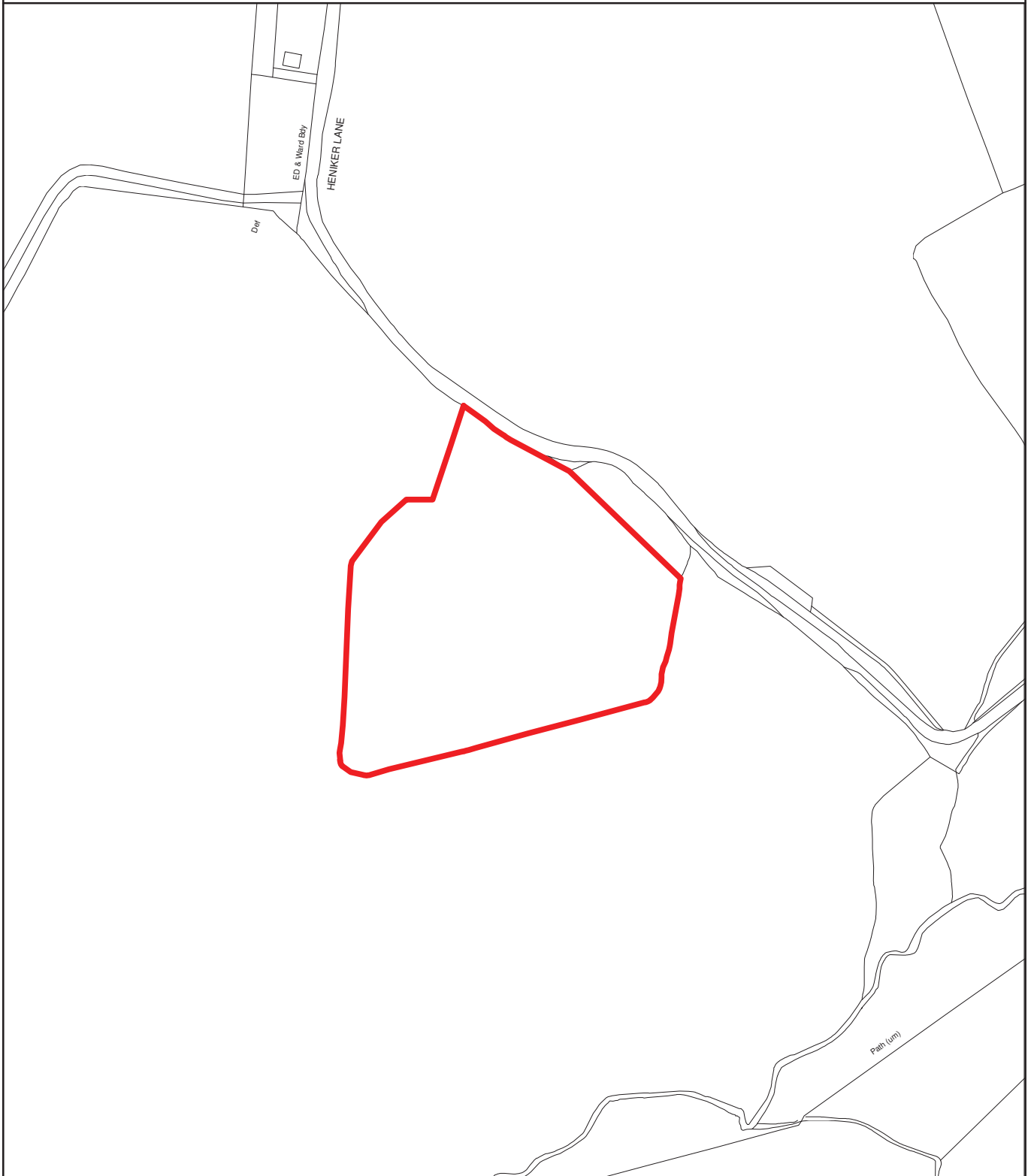
Agenda Item 15

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1823

GRID REF: TQ8247

ROUND OAK FARM, HENIKER LANE,
SUTTON VALENCE.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/1823 Date: 14 October 2011 Received: 4 November 2011

APPLICANT: Mr & Mrs Coles

LOCATION: ROUND OAK FARM, HENIKER LANE, SUTTON VALENCE,
MAIDSTONE, KENT, ME17 3ED

PARISH: East Sutton

PROPOSAL: Change of use of land to a holiday caravan site with the stationing
of 3 static holiday let caravans as shown on drawing nos. 11/1001,
11/1010 and 11/1011 received on 24th October 2011.

AGENDA DATE: 7th June 2012

CASE OFFICER: Richard Timms

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

- It is contrary to views expressed by the Parish Council
- It is a departure from the Development Plan

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34, ED20
- The South East Plan 2009: CC1, CC6, RE1, NRM5, C4, TSR2
- Government Policy: NPPF 2012
- Good Practice Guide on Planning for Tourism 2006

2. HISTORY

MA/12/0350 - Erection of an agricultural dwelling – UNDER CONSIDERATION.

MA/11/1408 - Erection of a single storey lambing and welfare shed – APPROVED WITH CONDITIONS.

MA/11/0309 - Erection of a detached agricultural dwelling – WITHDRAWN.

MA/10/1950 - Erection of a new agricultural barn for storage and handling – APPROVED WITH CONDITIONS.

MA/10/1562 - An application for prior notification of agricultural development being the erection of an agricultural barn - APD Planning Permission Needed.

MA/09/1814 - Use of land for the stationing of a mobile home for use in connection with agricultural farm land, for a temporary period of 3 years – APPROVED WITH CONDITIONS.

MA/08/1659 - An application for the prior approval of the Local Planning Authority for the erection of an open sided portal framed building for hay storage – WITHDRAWN.

MA/08/1912 - Application for prior approval of the Local Planning Authority for the erection of an agricultural building - Prior Approval Given.

MA/07/1869 - An application for the prior approval of the Local Planning Authority for an extension to an agricultural barn - Prior Approval Refused.

MA/06/1658 - An application for the prior approval of the local planning authority for the erection of an agricultural farm building – WITHDRAWN.

MA/05/2096 - An application for the prior approval of the local planning authority for the erection of an agricultural building for storage of farming equipment and machinery; and for the storage of crops, silage and hay - Prior Approval Given.

3. CONSULTATIONS

- 3.1 **East Sutton Parish Council:** Raise objections to the application and request the application is reported to Planning Committee.

"At the recent planning meeting East Sutton Parish Council discussed the above application and agreed to recommend refusal and are prepared to go to planning committee. They believe that there are access issues onto a very narrow country lane, that the parking issue has not been addressed. The applicant states that there are already hook up points for four touring caravans in addition to the three static vans applied for. Visitor parking has not been mentioned. The farm is currently rearing a rare breed sheep for sale as breeding stock and meat. This business is growing and the Parish Council cannot see the necessity to change the use of the land when it might set a precedent for farmland. There is also an under used caravan park within one and a half miles of this site."

- 3.2 **KCC Biodiversity Projects Officer:** No objections subject to retention of existing vegetation, biodiversity enhancements and details of lighting.

"No ecological information has been supplied in support of this application. We have reviewed the details supplied, site photographs and aerial photographs and have attended a site visit (17th January 2012). From the results of our desktop assessment and site visit, we do not consider it necessary to require an ecological assessment as part of the application at this time."

The proposals state that the caravans will be sited in existing clearings within the wood. This would ensure that the potential for direct ecological impacts within the site is limited. The areas of the site that hold the greatest ecological value are the trees, the hedgerow bordering the road and the patches of bramble/scrub within the wood.

As such, and in order for us to remain of the conclusion that no ecological survey is currently necessary, we advise that all of these features must be retained. We advise that any changes to the application which would necessitate clearance of trees, hedgerow or the bramble/scrub areas would require ecological assessment on the part of the applicant.

If minor works (e.g. trimming back of scrub/bramble) are required to vegetation of potential suitability to nesting birds, such as those mentioned above, the works must be undertaken outside of the bird breeding season (bird breeding season is March to August inclusive), in order to minimise the potential for damage and/or destruction of bird nests that are in use or being built, which is an offence under the Wildlife and Countryside Act 1981 (as amended). Alternatively, if the timing cannot avoid this period, an inspection by a suitably experienced ecologist to ensure that there are no active bird nests present would be required.

There is no lighting proposed within the application. If this is considered necessary in the future, we advise that this must not result in illumination of the trees, which given their maturity have the potential to be suitable for roosting bats. Any lighting proposed must be in accordance with the following Bat Conservation Trust recommendations (where applicable):

- *Low-pressure sodium lamps or high-pressure sodium must be used instead of mercury or metal halide lamps where glass glazing is preferred due to its UV filtration characteristics.*
- *Lighting must be directed to where it is needed and light spillage avoided. Hoods must be used on each light to direct the light and reduce spillage.*
- *The times during which the lighting is on must be limited to provide some dark periods. If the light is fitted with a timer this must be adjusted to the minimum to reduce the amount of 'lit time'.*
- *Lamps of greater than 2000 lumens (150 W) must not be used.*
- *Movement sensors must be used. They must be well installed and well aimed to reduce the amount of time a light is on each night.*
- *The light must be aimed to illuminate only the immediate area required by using as sharp a downward angle as possible. This lit area must avoid being directed at, or close to, any bats' roost access points or flight paths from the roost. A shield or hood can be used to control or restrict the area to be lit. Avoid illuminating at a wider angle as this will be more disturbing to foraging and commuting bats as well as people and other wildlife.*
- *The lights on any upper levels must be directed downwards to avoid light spill and ecological impact.*

- *The lighting must not illuminate any bat bricks and boxes placed on the buildings or the trees in the*

The key principles of PPS9 are not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it. We advise that ecological enhancements for this proposal could include gapping-up of the hedgerow along the road with native, local provenance species and the management of the hedgerow for optimal wildlife value, e.g. through a reduced cutting/trimming regime.”

3.3 MBC Landscape Officer: No objections subject to a condition requiring an arboricultural method statement.

“The proposal is not accompanied by any arboricultural information. However, it is clear that this proposal will involve activity within the root protection area of mature Oak trees. The woodland is not currently subject to a Tree Preservation Order.

The application lacks the necessary detail to substantiate the claim in the design and access statement that ‘no trees are to be affected whatsoever’. I disagree with this statement and consider that if suitable measures are not taken, significant harm to trees could occur, particularly their roots.

However, I do not object to the basic principle of the application on arboricultural grounds. I consider that the proposal could be successfully undertaken without significant harm to trees, provided that careful consideration of the potential impact of the development of trees is undertaken and that suitable measures are implemented to avoid or minimise that impact.

I therefore recommend that an Arboricultural Method Statement (AMS) is required by condition prior to the commencement of any development. The condition should require the details to submitted and approved by the Local Planning Authority prior to any machinery or vehicles entering the site, or any excavations taking place within the root protection area of trees as defined by BS5837:2012.

The AMS should consider all operations related to the proposal during construction and future use, which have the potential to cause harm to trees, directly or indirectly.

This should include, but not necessarily be limited to, consideration of the location and installation method of the cabins, the foundations of the cabins, the location and installation of any services (including gas, water, electricity and waste), the location and design of the access track and parking spaces using a no-dig and permeable construction within the root protection area of trees. The AMS should include a schedule of any facilitation pruning required to implement the development. Where tree protection measures are considered necessary, full details of these should be included within the AMS.”

3.4 Kent Highway Services: No objections subject to a condition securing parking.

3.5 **Environmental Health:** No objections subject to specific details of foul sewage disposal.

3.6 **Environment Agency:** No objections.

4. REPRESENTATIONS

4.1 **Sutton Valence Parish Council (neighbouring parish):** Raise objections to the application and request the application is reported to Planning Committee.

"There is no information as far as they can see on the siting of the touring vans. It states on the application that there is no alteration to numbers of vehicles on the site, when quite obviously there must be. There is no detailed explanation of where the vehicles will be parked and no mention of possible visitor parking. Heniker Lane is an extremely narrow country lane and the Parish Council would not want to see additional traffic movement on this."

5 CONSIDERATIONS

5.1 Site Description

5.1.1 Round Oak Farm comprises a livestock farm of some 82 acres (33.2 ha) which the applicant owns to the south of Heniker Lane. As well as the main owned holding the enterprise utilises various offlying held on tenancies/grazing licences. The main enterprise to date has been the build-up of a flock of rare breed Hebridean sheep and there is also a herd of Highland cattle, several Tamworth pigs, and some hens. The farm has developed in the past 7 years and has three existing agricultural buildings and a mobile home granted temporary permission in 2010 in the north corner of the farm.

5.1.2 The application site consists of an irregular shaped area of oak woodland (1.6ha) around 70m southeast of the farm's buildings. It adjoins Heniker Lane to the north and is bounded by grassland on the other sides. The mature trees are closely grouped but there are open areas and clearings, including where there is an un-metalled track running through the centre. Otherwise there are areas of scrub and smaller trees and bushes. There is a gated entrance into the woodland in the northwest corner which leads onto the track. The applicant explained that his family uses the woodland occasionally for recreational use and there is a timber building towards the southwest corner. The nearest houses to the site are at Heniker Cottages around 200m north of the site.

5.1.3 The site is within the open countryside designated as a Special Landscape Area (Greensand Ridge) under policy ENV34 of the Local Plan. The application site

falls within East Sutton parish and part of the farm's land to the west falls within Sutton Valence parish.

5.2 Proposal

- 5.2.1 Permission is sought for a change of use of the woodland to a holiday caravan site with the stationing of 3 static mobile homes. The mobile homes would be positioned just off the existing trackway in the southern half of the site. No operational development is proposed as the applicant intends to site the homes upon block piers and leave the woodland area as it is. Otherwise temporary and moveable decking would be placed outside the homes. The mobile homes proposed to be used would be around 11.5m x 3.6m and 2.7m in height providing 2 bedrooms, kitchen/living area and shower/toilet facilities. They would be timber clad with slate effect tiling.
- 5.2.2 No vehicular access is proposed within the woodland and visitors would be asked to park near the farm entrance within the farm courtyard area (3 spaces) and would then be escorted via buggies or walk to the caravans. Foul drainage would be dealt with by a package treatment plant. Only lighting within and on the homes is proposed.

5.3 Principle of Development

- 5.3.1 Policy ED20 of the Local Plan relates to holiday caravan and camping sites and can allow for such development in the countryside as an exception to the general theme of constraint. It states that such uses will be permitted provided the site is not an intrusive feature in the landscape and is capable of being adequately screened and landscaped, there are appropriate access and parking arrangements, there is no detrimental impact on neighbouring land uses or residential amenity, and that the presence of similar uses in the locality would not lead to unacceptable environmental or highway impacts. As such, the principle of the development is acceptable and detailed consideration must be given to these issues. The site falls within a Special Landscape Area and therefore careful consideration must be given to the impact upon this landscape.
- 5.3.2 The South East Plan promotes sustainable development which respects the environment and policy TSR2 (Rural Tourism) provides encouragement for tourism and recreation-based rural diversification of a scale and type appropriate to their location.
- 5.3.3 The NPPF outlines that planning should achieve sustainable development through economic, social and environmental roles with one of the core principles to recognise the intrinsic character and beauty of the countryside and support thriving communities within it. Section 3 relates to the rural economy and

outlines that planning policies should support sustainable growth and expansion of all types of businesses and enterprises; promote the development and diversification of agricultural and other land-based rural businesses; and support sustainable rural tourism and leisure development that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.

- 5.3.4 Paragraph 118 relates to biodiversity where decisions should aim to conserve and enhance biodiversity, designated sites and irreplaceable habitats should only be affected in exceptional cases and significant harm resulting from development must be mitigated, or as a last resort, compensated for.
- 5.3.5 Overall, the principle of a new holiday caravan site is acceptable having regard to the Local Plan, South East Plan and the NPPF and detailed consideration needs to be given to landscape impact, biodiversity, residential amenity and highway safety.

5.4 Landscape Impact

- 5.4.1 The explanatory text to policy ED20 recommends that sites, "should be sited in well screened, un-intrusive locations, and sites surrounded by mature woodland or taking good advantage of concealing natural land forms". For the proposed site, the mature woodland would provide very good screening of the development from Heniker Lane to the northwest, north and east, and from public footpath KH509A some 200m to the south. Whilst the mobile homes would not be more visible from Heniker Lane in the winter months when the trees and roadside hedging is not in leaf, any views would still be heavily broken by vegetation such that the development would not be intrusive or prominent.
- 5.4.2 During hours of darkness, the development would introduce lighting at the site into an area which is currently unlit. However, again it would be broken by vegetation and the scale of the use in my view would not be entirely out of character with the amount of lighting at other small groups of houses or development in the locality.
- 5.4.3 I have discussed potential caravan site licence requirements with the Council's licence officer in view of what other development may be required at the site that could have an impact. The main development can include access ways and paths for fire safety access (which should be suitably lit) and hard standings for caravans. He considers hard surfaced bases are likely to be needed to properly support the homes and lighting would be necessary for safe access. My view is that such development would have a minimal visual impact upon the landscape but the impact upon trees needs to be carefully considered.

5.5 Impact Upon Trees

- 5.5.1 The applicant does not propose any operational development and wishes to maintain the woodland area as it is. However, as stated above there may be caravan site licence requirements. I have been advised that a hard surfaced access may be required for fire safety access but this would not be definite and sprinkler systems within caravans are an option. I consider that if an access track cannot be avoided it should be subject to a further planning application so the impact upon trees can be fully assessed. Any application can fully consider the location, installation method and design of any access track to ensure no unacceptable impact upon trees. As such, I will remove permitted development rights for development required under a site licence to control this.
- 5.5.2 For other more minor development potentially required such as foundations for the cabins (bearing in mind they are in clearings), the location and installation of any services and lighting, I consider a condition requiring an Arboricultural Method Statement (AMS) to protect trees is appropriate.
- 5.5.3 The Council's landscape officer has been consulted and does not object to the basic principle of the application on arboricultural grounds. It is advised that the proposal could be successfully undertaken without significant harm to trees, provided that careful consideration of the potential impact of the development on trees is carried out and that suitable measures are implemented to avoid or minimise that impact. The AMS will consider the location and installation method of the cabins, any foundations for the cabins, the location and installation of any services (including gas, water, electricity and waste). The AMS can also include a schedule of any facilitation pruning required to implement the development. Where tree protection measures are considered necessary, full details of these can be included within the AMS. Based on the advice, I consider this would ensure adequate protection for existing trees.
- 5.5.4 Overall, I consider the impact of the development upon the landscape would be relatively low and would not result in any significant or unacceptable harm to the character or appearance of the area. Additional landscaping can be provided, including strengthening the roadside hedge and new hedges along the other boundaries of the woodland. I have taken into account that the mobile homes at the site could change in future (provided they fall within the legal definition of a caravan) but due to the good screening at this site this does not alter my view. I also note that the explanatory text to policy ED20 recommends that sites should be located outside Special Landscape Areas, however, this is a recommendation and not part of the policy itself. Nonetheless, I do not consider the development causes demonstrable harm to the Special Landscape Area so this is not considered grounds for objection.

5.6 Biodiversity Impacts

5.6.1 The site does not fall within an area with a local or national designation nor is it ancient woodland, however, it clearly holds some ecological value. For this reason the KCC Biodiversity Projects Officer has carried out a site visit to judge the need for any surveys. On the basis of the site visit, the advice received is that it is not considered necessary to require an ecological assessment as part of the application. The officer notes that the mobile homes would be sited in existing clearings within the wood and that this would ensure that the potential for direct ecological impacts within the site to be limited. (This would also be the case for any roadway or path required under a site licence). It is advised that the areas of the site that hold the greatest ecological value are the trees, the hedgerow bordering Heniker Lane and the patches of bramble/scrub within the wood, which would not be affected. Based on this advice which raises no objections, I am satisfied that significant harm would not result from the development.

5.6.2 However, the NPPF requires conservation and enhancement of biodiversity and so I consider that a plan to manage the site in order to protect and enhance biodiversity is appropriate. This can include management of the woodland to protect the patches of bramble/scrub, details of gapping-up of the hedgerow along the road with native, local provenance species, new native landscaping, management of the hedgerows for optimal wildlife value, e.g. through a reduced cutting/trimming regime and details of appropriate lighting. This can be secured through condition.

5.7 Residential Amenity

5.7.1 The nearest houses are around 200m to the north and I do not consider the scale of the use would result in any unacceptable levels of noise, disturbance or nuisance to these properties either from use of the site itself or vehicle movements on local roads. Due to the distance there would be no loss of privacy to any nearby houses.

5.8 Highways

5.8.1 Kent Highway Services have considered highway safety and the parking provision of 3 spaces. No objections are raised subject to securing the parking provision which will be dealt with by condition. On this basis I consider there are no highway safety issues with the development.

5.9 Other Matters

5.9.1 Policy ED20 at its end states that,

"A holiday occupancy condition will usually be attached, preventing use of the site as a permanent encampment. The condition will limit occupation to a specified ten month period in any calendar year."

- 5.9.2 As Members may recall on recent committee reports relating to occupancy conditions, the Government's 'Good Practice Guide on Planning for Tourism' (2006), which is still extant following publication of the NPPF, must be given weight in the consideration of this application because it still provides the most up to date guidance on such matters.
- 5.9.3 Annex B specifically deals with seasonal and holiday occupancy conditions and outlines that the nature of holidays has become increasingly diverse, in location, in season and in duration. Many people go away several times a year, often for short breaks and not exclusively in the summer months. The guide refers to 'seasonal occupancy' conditions but advises their use only if seeking to protect the local environment. Essentially this guide is advising local planning authorities to be flexible and only impose seasonal conditions for specific environmental reasons.
- 5.9.4 I am also aware of recent appeal decisions relating to holiday accommodation (outside the Borough) where Planning Inspectors have taken the approach in this guidance. The general view being that although traditionally a 'closed period' has been imposed on caravan parks, tourism is a year round activity with closed periods only needed in specific circumstances and that such conditions can be unduly onerous in the context of the current holiday market. Inspectors have considered that year round holiday use can be acceptable. I am also mindful that recent permissions have been granted in the Borough which do not require a close in the occupancy period. For example, 'Pilgrims Retreat', Hogbarn Lane, Harrietsham that was granted at Planning Committee on 29th March 2012.
- 5.9.5 However, there is obviously still a need to prevent a permanent residential use in the countryside, which is contrary to established planning policy. This is commonly in the form of a condition restricting the caravans to holiday purposes only and not being occupied as a person's sole or main residence. I do not consider a register of names of occupiers and their main home addresses is necessary as was deemed the case for the 'Pilgrims Retreat' because the mobile homes would not be individually owned as was the case there. My opinion is that the following condition would be sufficiently robust to enable enforcement action to be taken against any potential breaches, and thus suitable to prevent permanent residential occupation:

All accommodation units 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.

- 5.9.6 The Environmental Health Manager has requested more specific details of foul drainage which would be dealt with by a package treatment plant. I consider this could be dealt with by condition to ensure this would be appropriate, and if not, that an alternative method could be employed. I note the Environment Agency has raised no objections and this would also be dealt with under a caravan site licence.
- 5.9.7 Other matters not considered above include the Parish Council raising the issue of precedent and an under-used caravan park within one and a half miles of this site. Each application must be judged on its own merits and any decision would not set a precedent. I do not consider an underused caravan park in the vicinity is sufficient grounds to object to this application. For the above reasons, there is not considered to be any unacceptable harm caused by the development and there is no requirement in policy to demonstrate a specific need for such uses. This is a small scale proposal and there is no evidence to suggest that it would not necessarily be successful.

6. CONCLUSION

- 6.1 Local, regional and national policy can allow for holiday caravan and camping sites at rural locations and for the above reasons it is considered that the proposal would not cause any unacceptable harm to the area. The development is therefore considered to comply with the Development Plan and subject to conditions, I recommend that planning permission be granted.

7. RECOMMENDATION

Subject to the expiry of the site notice and advert publicising the application as a Departure from the Development Plan and the receipt of no representations raising new issues material to the decision, I be given DELEGATED POWERS to GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. All accommodation units 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.

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 the NPPF 2012.

3. No caravan shall be occupied by any one individual or group of individuals for any period longer than one month and there shall be no return by an individual or group of individuals within 4 weeks of leaving occupation of the site.

Reason: To ensure that the site is not used for permanent residential accommodation pursuant to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and the NPPF 2012.

4. No more than 3 holiday caravans shall be provided on site.

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policies ENV28, ENV34 and ED20 of the Maidstone Borough Wide Local Plan 2000 and the NPPF 2012.

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

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policy T13 of the Maidstone Borough Wide Local Plan 2000 and the NPPF 2012.

6. The development shall not commence until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The AMS shall accord with the recommendations of 'BS5837:2012 Trees in relation to design, demolition and construction - Recommendations' and shall include the following details:-

- a) Details of any caravan foundation design and methods of construction,
- b) The location and installation of services and lighting within and to the site, and
- c) The design, location and installation of tree protection measures.
- d) The installation method of the caravans including a schedule of any facilitation pruning required to implement the development

The AMS should use no-dig and permeable construction methods within the root protection area of trees. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit within any of the areas protected by this condition. The siting of barriers and/or ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory appearance to the development pursuant to policies ENV28, ENV34 and ED20 of the Maidstone Borough-Wide Local Plan 2000.

7. The development shall not commence until details of any lighting to be placed, erected or provided within the site has been submitted to and approved in writing by the local planning authority. Such details must demonstrate how they have had regard to biodiversity implications including upon bats. The development shall thereafter be undertaken in accordance with the subsequently approved details and no additional lighting to that approved shall be placed, erected or provided within the site at any time without the prior approval of the local planning authority.

Reason: In the interests of the character and amenity of the surrounding countryside and biodiversity and to prevent light pollution pursuant to policies ENV28 and ENV34 of the Maidstone Borough Wide Local Plan 2000 and the NPPF 2012.

8. The development shall not commence until details of a landscape and biodiversity management plan have been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the management and retention of the woodland to protect the patches of bramble/scrub and to enhance its biodiversity value, details of hedgerow improvements and management along the north boundary of the site and details of new native hedge planting and subsequent management along the boundaries of the site. The development shall subsequently be carried out in accordance with the approved details and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and in the interests of biodiversity protection and enhancement in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan and the NPPF 2012.

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

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan and the NPPF 2012.

10. 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 5, Class B to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard existing trees and protect the character and appearance of the area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and the NPPF 2012.

Informatives set out below

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

The proposed development is not in accordance with policy ED20 of the Maidstone Borough-Wide Local Plan 2000. However, the development does comply, subject to the conditions stated, with the more recent advice and guidance contained within the Good Practice Guide on Planning for Tourism 2006. This is considered to represent circumstances that outweigh the existing policies in the Local Plan and there are no overriding material considerations to indicate a refusal of planning consent.

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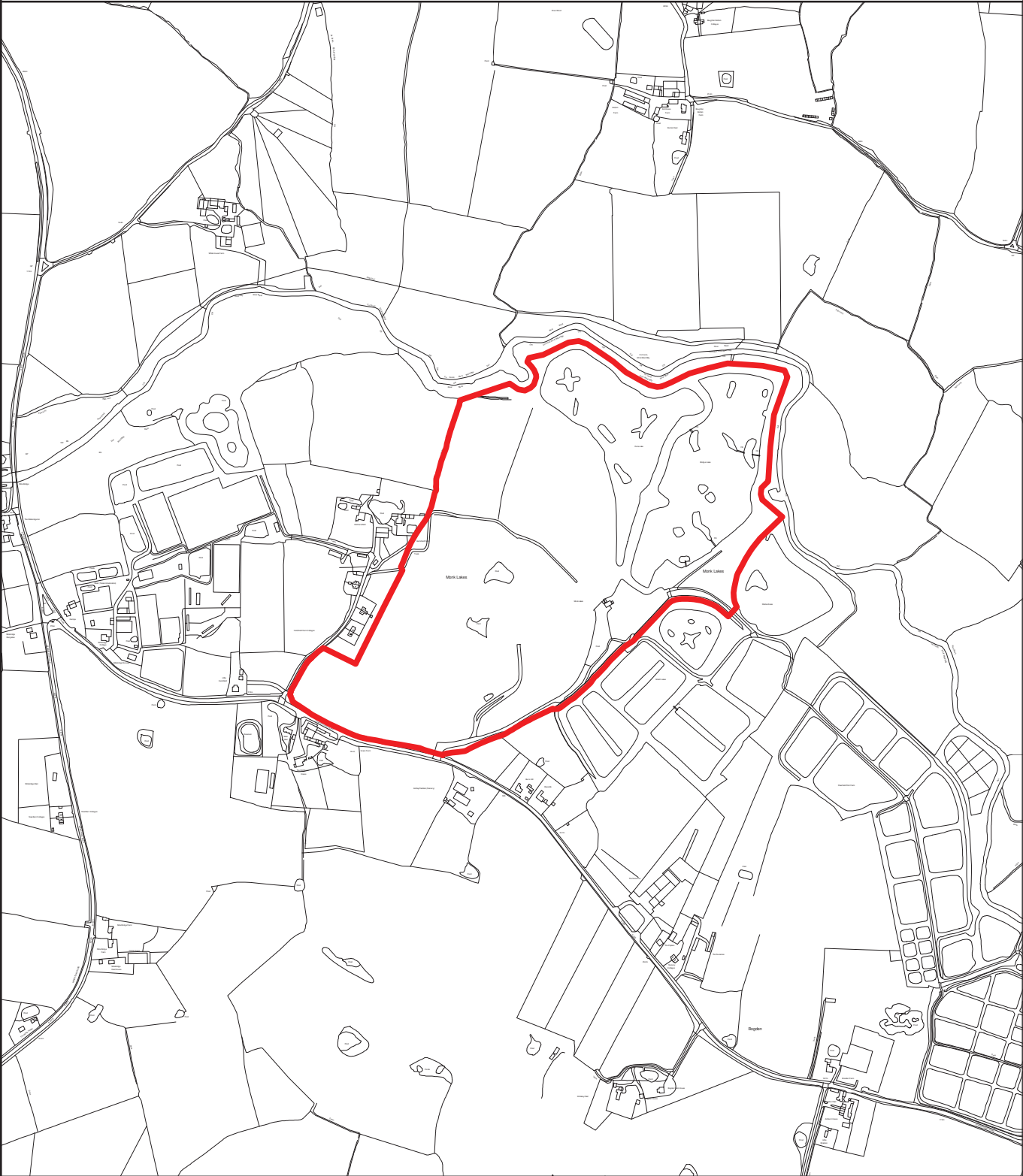
29.05.2012

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1948

GRID REF: TQ7647/7747

MONKS LAKES, STAPLEHURST ROAD,
MARDEN.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/1948 Date: 4 November 2011 Received: 9 December 2011

APPLICANT: Mr & Mrs Harrison, Monk Lakes Ltd

LOCATION: MONKS LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE, KENT, TN12 9BU

PARISH: Marden

PROPOSAL: Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping.

AGENDA DATE: 7th June 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 Marden Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV49, T13
- South East Plan 2009: CC1, CC6, NRM4, NRM5, C4, TSR2, T4
- Government Policy: National Planning Policy Framework (2012)

2. BACKGROUND AND HISTORY

- MA/10/0766 – Creation of lakes for use for recreational fishing – WITHDRAWN.
- MA/10/0762 – Erection of clubhouse including decking area, solar photovoltaic tiles and associated works to replace existing buildings on site – WITHDRAWN.
- MA/09/2027 – Retrospective application for the retention of buildings and mobile facilities to serve recreational angling – TEMPORARY PLANNING PERMISSION (3 YEARS) GRANTED ON 4 JANUARY 2010
- MA/09/1380 – Retrospective application for the change of use of existing lakes from fish farm to recreational angling and retention of ancillary car parking and access to site (this related to the Mallard Lakes in the eastern part of the enforcement site) – PLANNING PERMISSION GRANTED.

- MA/03/0836 – Change of use of land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park. The existing access to Staplehurst Road is to be improved – PLANNING PERMISSION GRANTED.
- MA/00/1162 – Change of use of land and engineering works to create an extension to the existing fish farm and provision of temporary works access – PLANNING PERMISSION GRANTED.

Comment

- 2.1 The application site has extensive planning and enforcement history. Following the granting of MA/03/0836, works took place on the land which resulted in a configuration of development wholly different from the approved plans. Furthermore, the development was commenced without compliance with the planning conditions attached to the permission and, in particular, the pre-commencement conditions of that permission, as follows:-
- Condition 5: details of boundary treatment;
 - Condition 7: details of vehicular access;
 - Condition 10: scheme of landscaping;
 - Condition 12: details of earthworks;
 - Condition 13: details of foul and surface water drainage;
 - Condition 15: a scheme of habitat enhancement works to the River Beult SSSI.
- 2.2 On the 31st October, 2003, MBC wrote to the then landowner, Mr Simon Hughes, expressing concern at the commencement of development without the benefit of planning consent, and compliance with pre-commencement planning conditions, and advising that these works should cease immediately. Mr. Hughes was further advised that any works that had been undertaken were entirely at his risk. Mr. Hughes was asked to submit the details relating to the planning conditions within 14 days but if these were not forthcoming then enforcement action and/or legal proceedings would be investigated. Mr. Hughes replied with a letter dated 18th November, 2003, which sought to explain why the details relating to planning conditions 5, 7, 10, 12, 13, and 15 of planning permission MA/03/0836 had not been supplied. There was a subsequent meeting with Mr. Hughes and a further letter from him to MBC on the 11th December, 2003, but no submissions of details to discharge conditions.
- 2.3 No valid submissions for the discharge of any of the planning conditions attaching to planning permission MA/03/0836 were subsequently received.

2.4 An Enforcement Notice was served against the unauthorized development on 12 September 2008. The Notice alleged a breach of planning control in two parts, on the western part of the site both operational development and a change of use of the land from agriculture to recreational fishing is alleged. On the eastern part of the site a material change of use of the land from fish farming to recreational fishing is alleged (this aspect has been regularised by the granting of planning permission under reference MA/09/1380). The alleged operational development on the western part of the site consists of the following:-

- Importation of construction and demolition waste and its deposit upon the land (this remains the case);
- Raising of the levels of the land to form a plateau some 4m to 6m high with sloping sides across much of the area of the overall site (this remains the case);
- Excavation of a flood relief channel behind, and an earth bund along the western boundary of, the Hertsfield Lane properties, and excavation of other channels on the northern part of the land (this remains the case);
- Excavation of two lakes on the northern area of the blue edged land (known as Puma Lake and Bridges Lake (this remains the case);
- Improvement of a pre-existing temporary works access to the Staplehurst Road (A229), permitted for the duration of construction of an extension to the adjoining Riverfield Fish Farm under planning permission MA/00/1162, to form the main vehicular access for both construction traffic and recreational fishing traffic (this aspect has been regularised by the granting of planning permission under reference MA/09/1380);
- Construction of a hard surfaced car park and turning areas (this aspect has been regularised by the granting of planning permission under reference MA/09/1380);
- The erection of three permanent buildings within the car park area (this aspect has been regularised by the granting of temporary planning permission under reference MA/09/2027);
- The erection of fences and a car park barrier (this aspect has been partly regularised by the granting of planning permission under reference MA/09/1380).

2.5 The owner's response was to appeal against the enforcement notice, and also to submit a series of planning applications that in the main sought to deal with the pre-commencement planning conditions or that sought an extension of time for implementing the development. However, the Council declined to validate these planning applications for legal reasons. The owner then appealed against the non-determination of these applications. The Planning Inspectorate (PINS) on receiving the appeals inquired further into the reasons for non-determination and declined to accept the appeals, a decision it later reversed. PINS also declined to hear the planning appeals and the enforcement appeal together,

something the landowner had specifically requested. The owner submitted a High Court challenge against the refusal of PINS to hear all the appeals together. This High Court Challenge was settled late in 2011.

- 2.6 The Planning Inspectorate has restarted the appeal process and linked the planning and enforcement appeals. The linked appeals have a start date of 13 April 2012 and a Public Inquiry has been arranged to commence on 6 November 2012 and is scheduled to sit for 8 days. This planning application has to be considered on the basis that the enforcement proceedings would succeed and the enforcement notice would stand.

3. CONSULTATIONS

(full copies of the consultation responses are attached at Annex 1).

- 3.1 Marden Parish Council** wishes to see the application REFUSED and reported to Planning Committee stating:-

"Cllrs wished to see refusal of the 3 new lakes due to the adverse impact upon visual amenity, residential amenity and the wider countryside. Particular concern was raised regarding the flooding risk due to the loss of storage in the flood plain and the potentially contaminated soil already on site and consequently the absence of any justification for the further importation of potentially contaminated matter This has lead to further concerns regarding the potential and/or existing ground and surface water contamination. It is also noted that any Environmental Statement should relate to the site BEFORE the potentially contaminated soil was imported - this is thought to be 2003. Any EIA must include an assessment of the soils that have already been imported into the site not just those the applicant might want to import."

Further comments were received on the 2 below ground lakes 'Bridges' and 'Puma' stating:-

Councillors have concerns about possible loss of storage in the flood plain and potential escape of non native species into the river. We ask that the Borough Council get specialist advice from the Environment Agency and Natural England. The Clubhouse and car park need to be commensurate in size with the development they have to serve and this remains undetermined. If it is approved then a shop should be allowed only to sell products relating to recreational angling."

Further comments received on 21 May 2012 state:-

“Councillors would like clarification of how the applicant proposes to fill the new raised lakes and wonder whether the Environment Agency is content with any extraction from the river Beult in this period of drought?”

3.2 Environment Agency originally raised objections to the scheme on the following reasons:-

“We consider it highly unlikely that the development would be granted the necessary Environmental Permit.

The Environmental Statement does not adequately assess the risks to the natural environment.”

Following further work undertaken on behalf of the applicant and the submission of additional information the Environment Agency raised no objections to the scheme stating:-

“Based on the information provided to date, we can confirm we are in a position to **remove our objection.**”

The **Environment Agency** raise issues in relation to environmental permits and reservoir approvals that are covered by other legislation outside the scope of planning and they state:-

“In conclusion, we hope we have made it clear that in addition to any planning consent that may be granted, the applicant will be required to obtain an environmental permit and reservoir approval from us prior to any waste activity taking place on site. We have already made them aware that due to the current water levels within the River Beult, future abstraction from the river is unlikely to be permitted.”

3.3 Natural England originally raised objections to the scheme on the following reasons:-

“Natural England objects to the proposed development. We recommend that as submitted the local planning authority refuse planning permission on the grounds that the application contains insufficient information to satisfy Natural England that there would be no adverse effects on features of interest for which the SSSI is notified.”

Following further work undertaken on behalf of the applicant and the submission of additional information Natural England raised no objections to the scheme stating:-

“Having considered the additional information **Natural England withdraws its objection dated 10 January 2012**. This is on the basis that there is no additional abstraction of waters from the River Beult to maintain water levels (per section 3.2 of the Water Resource Management Strategy)”

3.4 Kent Wildlife Trust raise no objections to the application and welcome the proposed biodiversity enhancements stating:-

“In conclusion, then, I have no objection, in principle, to the grant of planning permission, subject to the imposition of conditions to secure the timely implementation of biodiversity enhancement prescriptions and the careful and meaningful monitoring of their success.”

3.5 KCC Ecology raise no objections to the application and are satisfied with the reptile surveys that have been carried out and the improvement to biodiversity that is proposed. They state:-

“One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. The landscaping strategy incorporates the use of native species planting, which we support. We also advise that a habitat management plan is required as a condition of planning, if granted. The implementation of a suitable plan, incorporating timing of management prescriptions, will ensure that all appropriate areas of the site are managed to secure optimal wildlife benefits.”

3.6 MBC Landscape Officer raises no objections to the application whilst identifying some issues with the proposed landscaping in terms of the finer details of the tree species to be planted and the dominance of weeping willow in the landscape and stating:-

“As the proposal is to reduce the average height of mounds and includes a comprehensive landscape scheme to help mitigate the incongruous nature of the development there are no landscape grounds on which to object to this proposal. I would, however, wish to see further consideration of the issues mentioned above, particularly in respect of the finer details of the landscape proposals. These can clearly be dealt with by condition if you are minded to grant consent for this application.”

3.7 MBC Conservation Officer raises no objections to the application stating:-

“The existing and proposed lakes have no adverse impact on the settings of listed buildings in the vicinity. However, given the substantial amount of excavation proposed I would recommend that we consult with KCC heritage section regarding archaeological impact prior to determination.”

3.8 MBC Environmental Health Manager raises no objections subject to the imposition of informatives.

3.9 Kent Highway Services raise no objections to the application stating:-

"An additional 51000m³ of material will need to be imported for the project and it is intended that 20 tonne lorries will be used; each carrying 10m² loads. The applicant has agreed to conditions to restrict the times and numbers of HGV movements and to agree a phasing and implementation plan. HGV's would be limited to 30 per day between Monday and Friday and 15 on Saturdays. The applicant estimates that the importation of material will be completed in a minimum of 45 weeks.

Access is to be made from an existing access onto the A229 Staplehurst Road a principal route. There have been no reported injury crashes at this access within the latest 3 year period. Staplehurst Road is subject to the national speed limit and the measured 85th percentile speed is 52mph. The visibility splay from the site access is considered to be adequate for the speed of traffic.

Bearing in mind the above information I am of the view that this application will not be detrimental to highway safety or capacity and I do not wish to raise objection to this application on highway grounds."

3.10 Sport England support the application stating:-

"Planning Policy Objective 7 of Sport England's Spatial Planning for Sport and Active Recreation: Development Control Guidance Note (2009) Appendix 2, www.sportengland.org/facilities_planning/developing_policies_for_sport.aspx supports the development of new facilities that will secure opportunities to take part in sport. As the proposal would secure new opportunities for participation in sport, the proposal is considered to meet this objective, Sport England would therefore support the principle of this planning application."

4. REPRESENTATIONS

(full copies of the representations are attached at Annex 2 with a detailed commentary on the points raised set out in Annex 3).

Three letters of objection have been received; two from a planning agent on behalf of a nearby resident and one from the Hertsfield Residents Association on the following grounds:-

- The 2003 permission has not been implemented and is not a fallback position.

- The consideration of the application should be based on the pre 2003 consent position and not the current situation.
- The application is a waste matter and therefore should be dealt with by Kent County Council.
- Concern regarding the type of material that has already been imported onto the site and the future material to be imported.
- The Council were justified and correct in issuing the enforcement notice.
- Loss of light and outlook to properties from the height of the bank and the proposed planting on top of the bank.
- If the planting on the bank is not carried out then there would be a loss of privacy to the properties from the users of the fishing lakes.
- The scheme has been designed to include the importation of more material in order to make money and the previous extensive importation would have generated a sizeable income.
- Concern in relation to the adequacy of the drainage ditch and the potential blockage of pipes between the lakes.
- The wildlife impact is not examined from the pre 2003 consent position.
- Concern regarding the surface water drainage from the site and its impact on neighbouring residences.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site, known as Monks Lakes, is an angling complex consisting of existing ponds and lakes, and lakes under construction on a man-made plateau of land some 4m to 6m above the original ground levels of the site.
- 5.1.2 The site lies north of the A229 Staplehurst Road between the villages of Linton and Staplehurst. The site contains a number of lakes used for recreational fishing, an access road leading to a car park, and a complex of both permanent and temporary or mobile buildings used as a shop, canteen, toilets and storage, and an extensive area of both raised land and other land under development with lakes that are proposed to be used for recreational fishing. The application site extends to some 35 hectares, although the Monks Lakes facility is larger due to the adjacent lakes to the east.
- 5.1.2 The nearest residential properties to the appeal site lie along Hertsfield Lane immediately to the west of the appeal site and are Hertsfield Farm Cottages, Old Hertsfield Farmhouse, Hertsfield Barn and Hertsfield Oast. These properties are a minimum of 20 metres from the boundary with the application site.
- 5.1.3 Old Hertsfield Farmhouse is a Grade II listed building as is the barn about 50 metres to the east of the farmhouse and it is considered that the application site,

(or that part of it close to these listed buildings) forms part of the setting of the listed buildings.

- 5.1.4 The application site lies in pleasant, generally flat countryside consisting of fields and hedgerows interspersed with small to medium sized woodlands.
- 5.1.5 The northern boundary of the site is along the River Beult which here is a Site of Special Scientific Interest (SSSI). Beyond the River Beult the land rises steeply upwards to the Greensand Ridge. On the northern side of the River Beult there is a public footpath KM129 that runs generally on an east west axis.
- 5.1.6 To the south east of the application site is the extensive Riverfield Fish Farm complex of ponds and lakes which has past associations with the application site.
- 5.1.7 The site is in an unfinished state. Following the issuing of the Enforcement Notice the work ceased on the site and as a result the site appears as an incomplete development. The result is an incongruous landform with steep sided slopes around the perimeter and a deep hole approximately 70 metres from Staplehurst Road where clay has been excavated to line the lakes that have been completed. The banks currently have a harsh visual impact being of a significant height and devoid of significant landscaping. These banks have a particularly harsh appearance from views along Staplehurst Road and also create harm to the residential amenity of nearby residents by their overbearing nature.

5.2 Proposal

- 5.2.1 The application is a full application for a proposed scheme submitted as a response to the Enforcement Notice. The application seeks to retain the two below ground lakes known as 'Bridges' and 'Puma' in the northern part of the site. In addition the application seeks permission for the creation of three additional above ground lakes in the southern part of the site. The application also includes the erection of a clubhouse facility and associated works including an extensive landscaping scheme and ecological enhancement measures.
- 5.2.2 The general layout of the site would be similar to that permitted under application MA/03/0836. The numbers of lakes differ but the general location of the lakes and the above/below ground location is similar i.e. the above ground lakes are outside the flood zone.
- 5.2.3 The proposed lakes would be of a significant size to enable a recreational fishing use, the sizes are set out below:-

Lake 1 28000m²
Lake 2 36000m²

Lake 3 20000m²
Bridges lake 49000m²
Puma lake 38000m²

- 5.2.4 The creation of the 3 lakes would involve the reduction of the height of the material on site and a remodelling of the landscape in order to create the resultant scheme. However, in order to complete the scheme there would be a requirement to import an additional 51,000m³ of material onto the site. The lakes would cascade in height from the southern most lake (lake 1) at 21.4m AOD (normal water level) down to 17.9m AOD (normal water level) at the northern most lake of the 3 (lake 3).
- 5.2.5 The proposed lakes would have a maximum depth of 2m in depth in order to provide the best habitat for fish for angling and to encourage aquatic bird and insect habitat.
- 5.2.6 The ground level in the vicinity of the car park would be lowered by between 0.5m and 1.6m from the existing levels in order to provide additional compensatory flood storage capacity and the material used in the construction of the identified lake 1. The existing access arrangements that were permitted under reference MA/09/1380 will be retained as part of the application with no changes proposed to the access onto Staplehurst Road.
- 5.2.7 The proposal would also include the erection of a clubhouse building with an eaves height of approximately 2.5 metres and a maximum ridge height of 5.3 metres. The building would incorporate toilet facilities, a small shop area, kitchen and dining area. The gross floor area of the proposed building would be 266m². The materials would be timber clad walls and a plain clay tiled roof. Permission was granted under the 2003 permission for a clubhouse on a similar site to that now proposed. This clubhouse was smaller with a 5m height to ridge and a floor area of 75m². In addition, temporary planning permission was granted for the existing buildings on the site under reference MA/09/2027. These buildings include an office/shop/dining area, a hot food trailer, a equipment store/shed and WC's.

5.3 Principle of Development

- 5.3.1 The proposal involves the creation of lakes for recreational fishing with an associated clubhouse building. The principle of recreational fishing use is already established on the site with the Mallards Lakes land to the east of the application site and part of the Monks Lakes site. The scheme would expand that use to a wider area and would allow the retention of 'Puma' and 'Bridges' lakes and the creation and use of three additional lakes. The surrounding area is to some extent characterised by lakes with the adjacent Riverfield fish farm and although

the use is farming rather than recreational, the principle of the creation of lakes is accepted in the surrounding area. Whilst the site is covered by an Enforcement Notice the Council has to consider the current application on its own merits and in accordance with the Development Plan and any other material considerations.

5.3.2 The proposal is not dissimilar to that permitted under MA/03/0836. The principle of such a development on this site was considered acceptable in 2003 when the Council granted planning permission. It is the Council's view that the 2003 permission has not been implemented and is not a fallback position. However, the decision to approve the 2003 application was a decision of the Council and is a material consideration in the determination of this application to which I give some weight.

5.3.3 The Development Plan has changed in some respect with the adoption of the South East Plan (2009) and the loss of the Kent Structure Plan (1996), however, the Maidstone Borough-Wide Local Plan (2000) remains in force. The National Planning Policy Framework 2012 ('Framework') has replaced almost all of the Planning Policy Guidance Notes and Planning Policy Statements to provide the current national planning guidance.

5.3.4 The creation of fishing lakes for recreational fishing by virtue of the land area required is a use that demands a rural location and clearly cannot be located within a town or village boundary. Furthermore, the Mallard Lakes area is now an established and lawful land use for recreational fishing. Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) seeks to prevent harm to the countryside and indicates that development will be confined to certain exceptions. One of these exceptions is criterion 3:-

Open air recreation and ancillary buildings providing operational uses only;

Therefore I consider that, subject to the detail of the application in terms of specific impacts, the proposal is in conformity with Development Plan policies.

5.3.5 Government guidance contained within the 'Framework' allows for such development within rural areas. The key considerations of the application are; the impact of the development on flood risk and flooding, the impact of the development on the local ecology and biodiversity including the River Beult SSSI, the impact of the development on the land form of the area and its visual impact within the countryside and the impact on the residential amenity of nearby occupiers.

5.4 Flood Risk

- 5.4.1 Development that is within an identified flood zone and/or would impact on the amount of flood water storage in the flood zone has to be considered carefully in terms of the impact on flooding and flood risk. The 'Framework' requires applications located in flood zones to be accompanied by a site specific Flood Risk Assessment (FRA). The purpose of the FRA is to demonstrate that the development is appropriately flood resilient and resistant and where possible reduce flood risk overall.
- 5.4.2 The application includes a detailed site specific Flood Risk Assessment (FRA) that has been carried out on behalf of the applicant. The majority of the site falls outside any identified area at risk from flooding (therefore zone 1), however, some of the site, the northern portion, including the area where 'Bridges' and 'Puma' is located within the flood plain (zone 3).
- 5.4.3 The entire proposal involves significant raising of land but much of this work is located outside the flood plain. The FRA acknowledges that part of lake 3 would be constructed within the flood plain and would remove some flood storage from this area (approximately 30,200m³). The compensatory measures include the lowering of the ground level by the car park area and the lane between lake 3 and the river. This would provide an additional 15,600m³ of flood storage in the site. There would be further flood storage capacity from the normal water level of 'Bridges' and 'Puma' lakes and the original level. This would amount to 41,200m³ of additional flood storage, which would mean a total gross increase of approximately 46,800m³ of flood storage and a net gain of 16,600m³ of flood storage. The submissions include measures within the FRA and the proposed development that would increase the flood storage available within the site.
- 5.4.4 The FRA indicates that the measures proposed would ensure that there are no adverse effects outside the site. There would also be an increase in flood storage at the 25 year level and above as a result of the proposals and this would give a marginal benefit in flood levels downstream and some beneficial effects in the rate of local run-off in storm conditions.
- 5.4.5 The drainage from the site, due to the impact on the flood plain would need to be carefully considered. The existing drainage channel between the site and the residential properties in Hertsfield Lane would be upgraded to accept a 100 year run off level from the western slopes of the lakes. This would be a separate drainage channel from the existing highway drainage channel. In addition, overflow pipes would be constructed to pass storm water from lake 1 down to lake 3. The drainage system would be 150mm diameter pipes installed 500mm below the crest elevation of each lake at an incline of 1%. These matters would ensure that the drainage from the site is dealt with adequately and would

prevent any harm to the neighbouring properties. Full details of these systems shall be secured by way of a condition.

5.4.6 There has been concern raised by objectors with regard to the risk of flooding and adequacy of drainage arrangements. However, the Council has consulted with the Environment Agency who are the statutory consultee on flood matters and following the receipt of a revised FRA the Environment Agency have raised no objections to the proposal.

5.5 Biodiversity and Impact on SSSI River Beult

5.5.1 The site is immediately adjacent to the River Beult a Site of Special Scientific Interest (SSSI) for its biological interest and the impact of any proposal on this designation would need to be carefully considered because of the potential impact on the river Beult habitat. The River Beult has a wide range of plant life, which in turn influences the insect and bird life and these characteristics should be protected.

5.5.2 The submissions include an ecological assessment that assesses the habitat on site currently and any likelihood of protected species on the site and the impact of the development on the SSSI.

5.5.3 Following the initial assessment a further presence/absence reptile survey was undertaken on behalf of the applicant.

5.5.4 The results of the initial assessment and the subsequent reptile assessment indicate that there would be no significant impact on protected species from the development and mitigation measures are included in the submissions that could be conditioned. In addition, there are measures proposed to ensure that there would be no significant impact on the SSSI with run off and surface water to be directed to 'Puma' lake, the extension of the existing fish fence around the new lakes and foul water being passed through a Klargestor system to discharge to 'Puma' Lake. These measures would ensure that the habitat of the River Beult, including its plant and wildlife, is safeguarded.

5.5.5 Concern was initially raised by both Natural England and the Environment Agency with regard to the impact of the development on the River Beult through additional abstraction of waters from the River Beult and the removal of significant quantities of water. However, a Water Resource Management Strategy was submitted, which indicates that the site would not require water resource above the level of the existing abstraction licence. The Environment Agency and Natural England raise some questions with regard to the strategy but note that this would be a commercial decision for the applicant rather than a planning consideration.

- 5.5.6 The proposal would include a significant level of new landscaping with a mix of native species and areas including dense woodland mixes, wet woodland mixes, aquatic mixes and wildflower meadow mixes. This landscaping combined with the bodies of water would enhance the habitat available and the effective management of this landscape would result in biodiversity improvements.
- 5.5.7 It is my view that the applicant has demonstrated that the proposal would have no significant impact on the habitat of the SSSI and the proposals themselves including the native landscaping would result in some biodiversity enhancements in accordance with guidance contained within the 'Framework'.
- 5.5.8 Consultations have been undertaken with Natural England, the Kent Wildlife Trust and KCC Ecology and all have responded stating that they have no objections to the proposed development.

5.6 Visual and Landscape Impact

- 5.6.1 The site falls within the Valley landscape character type and area 58 (Beult Valley) of the new Maidstone Landscape Character Assessment, March 2012. It is within a prominent location immediately adjacent to the A229 a main route into and out of Maidstone and through the southern part of the Borough. There are clear views of the site from vantage points along this road and also from Hertsfield Lane. The site is also visible from longer distances on the slope up to the Greensand Ridge.
- 5.6.2 As the site is immediately adjacent to the River Beult it is located at the bottom of the river valley where the surrounding character of the area is flat fields typical of a flood plain location. The majority of the area is in agricultural use with sporadic development the fields rise steeply to the north on the opposite side of the River Beult up to the Greensand Ridge. Given the predominantly flat landscape the creation of man made above ground lakes would have an impact on the landscape.
- 5.6.3 However, it is a material consideration that the Council previously accepted that man made above ground lakes were acceptable in this location under application references MA/00/1162 and also MA/03/0836. Even if that were not the case, I consider that some change to the landscape profile of the site and the area in general from the original land levels is acceptable.
- 5.6.4 The site falls within the Valley landscape character type and area 58 (Beult Valley) of the new Maidstone Landscape Character Assessment, March 2012. Paragraph 58.7 makes specific mention of the site as follows:

'In the middle of the area, at Monk Lakes and Riverfield Fish Farms there is an extensive system of man made rectangular ponds. As part of this development, there has been extensive land raising and earth modelling along the A229 and the artificial sloping landform appears rather incongruous on the valley side.'

It also mentions that extensive planting of weeping willow adds to the artificiality of the landscape.

- 5.6.5 As part of the submissions a landscape and visual assessment has been carried out by Furse Landscape Architects. This assessment shows that there would be a positive impact on the surrounding landscape from the proposals. However, this assessment looks at the proposed scheme in relation to the current situation (which in the Council's view is unauthorised).
- 5.6.6 The correct approach to assess the application is to examine the proposal and assess the impacts of this proposal on viewpoints and the landscape character in general. It must be borne in mind that the only lawful fishing-related development in the immediate area is the Mallard Lakes area; ancillary car parking and site access and the temporary planning permissions for angling buildings (see Planning History above). In addition, there are other man made lakes in the vicinity being the Riverfield fish farm lakes to the east/south east of the Monks Lakes site. There is no doubt that the proposal would have an impact on the landscape character in the area since prior to the unauthorised works the land was predominantly flat in nature. It would result in a man made landscape including three above ground lakes within a valley. The proposed height of the banks would be 5m from the road to the crest adjacent to lake 1 (the lake closest to the A229) over an approximate distance of 40m from the road. This would be a 1 in 8 slope from the boundary with the A229. There is a 2.5m high hedge alongside the A229, which would have some mitigating impact. In addition there would be additional softening of the landform from the proposed landscaping. I do not consider that the slope of 1 in 8 over an approximate distance of 40m would result in sufficient visual harm that would warrant refusal. Incidentally the approved drawing for MA/03/0836 indicates a maximum slope of 1 in 8 for a distance of 50m between the road and the edge of the closest lake. Therefore I consider that from viewpoints along the A229 the visual impact of the current scheme would be less than the scheme approved under MA/03/0836 but would also be acceptable when assessed in landscape terms against the context of pre-2003 levels, the lawful fishing related development and nearby residential development.
- 5.6.7 The views from the public footpath to the north side of the River Beult would be mainly of the two below ground lakes 'Bridges' and 'Puma'. These lakes would be in excess of 50m from the public footpath and being below ground would not

result in a harmful impact. The land raising to create the above ground lakes would be in excess of 250m from the public footpath and would not result in significant visual harm.

- 5.6.8 There are longer distance views of the site from the slope up towards the Greensand Ridge. Due to the distance on these longer views and the resultant development of bodies of water within a valley location I do not consider that the 2.5m high slope from the level of the flat flood plain to the crest of lake 2 would be significantly intrusive in the landscape.
- 5.6.9 There would be some views of the proposed clubhouse from public vantage points along the A229. However, these views would be across a distance of between 300 and 350 metres. This distance combined with the scale of the clubhouse, in particular the eaves level of approximately 2.5m would result in a development that would not cause significant visual harm.
- 5.6.10 The banks would be lower and the gradient less steep and there would be a significant landscape scheme, therefore the proposal is a considerable improvement on the existing situation. The crests of the banks near the road would be reduced by in excess of 1.5m in many places and the crest of the bank would be approximately 5m further back from the road (40m). Whilst it would be an improvement, the existing landform is unauthorised and I give the comparison between the proposal and the existing unauthorised landform no weight in the considerations.
- 5.6.11 I note that the Council's Landscape Officer raises no objections to the proposal in terms of the impact on the landscape. It is considered by the landscape officer that in this area sites would need to conserve, and manage as appropriate, the dominance of willow as a key species along the river, and avoid planting new species of willow that are not considered to be locally appropriate species. In this regard a revised schedule of species is sought by way of a condition.

5.7 Residential Amenity

- 5.7.1 The nearest residential properties to the application site are located in Hertsfield Lane to the west of the site.
- 5.7.2 The dwellings most affected by the application site are on the eastern side of Hertsfield Lane and have the rear of the properties and private garden areas facing the site.
- 5.7.3 The crest of the land adjacent to lakes 1 and 2 would be in excess of 40 metres from the site boundary. The nearest residential properties are a further 20 metres from the application site boundary. The area closest to the boundary with

the residential properties would be relatively flat for the first 15 metres. On the western side of the drainage ditch the land would increase in height at a 1 in 8 slope resulting in a 4 metre rise over a 32 metre distance. This area would be landscaped to soften the bank as opposed to the harsh banking that currently occurs from the unauthorised development. As a comparison, rather than the banks exceeding a height of 5.5m a minimum of 30m from the boundary of the application site the reformed land would be almost a metre lower and at least 42m from the site boundary. This lowering and re-grading of the land would move the banks further back from the boundary and reduce the oppressive nature. Although the determination of the application is not based on the comparison between the existing unauthorised banks and the proposed development it serves as an illustrative comparison to assist in the visualisation of the proposal.

- 5.7.4 The height of the proposed bank when considered alongside the distance between the properties (both the dwellings and the private gardens) and the gradient of the bank are such that the development would not result in a significant loss of light to the properties that would justify a reason for refusal. These circumstances also mean that there would not be a significant oppressive outlook for the residents. I accept that the view from these properties would change from the pre 2003 consent position; however, the loss of a private view is not a reason to refuse this application.
- 5.7.5 The crest of the bank nearest the residential properties would be approximately 60 metres away from the nearest dwellings and this distance would be sufficient to prevent any loss of privacy to the occupiers. The proposed planting would further filter any potential overlooking.
- 5.7.6 There are conditions that can be imposed to secure an acceptable level of amenity that would prevent night fishing near the boundary with residential properties and prevent car parking around the lakes near residential properties by the users of the lake. These requirements would prevent undue disturbance to the nearby residents from the users of the fishing lakes.

5.8 Other Matters

- 5.8.1 The Environment Agency has raised issues identifying that the applicant would require a bespoke environmental permit for the importation and deposition of the additional material. They have also identified the requirement for the development and the future management to conform to the Reservoirs Act. These aspects can be dealt with by way of informatives on any approval and to ensure the proposed landscaping does not prejudice conformity with the Reservoirs Act a fully detailed landscaping scheme could be required by way of a condition.

- 5.8.2 The importation of additional material would result in a significant level of lorry movements into and out of the site. These movements have been assessed by Kent Highway Services who conclude that subject to conditions that would limit the times and number of lorry movements per day there are no objections on highway grounds. The access arrangements and visibility are acceptable and the application would not be detrimental to highway safety or capacity.
- 5.8.3 It will be desirable to ensure that the approved scheme is implemented fully within a timely manner. This would ensure that the harm caused by the current unauthorised development on the site would cease. To this end the recommendation includes the completion of a Section 106 legal agreement to secure the full implementation of the scheme within a timetable agreeable to the Local Planning Authority. This would include a detailed phasing and implementation plan. This legal agreement would be subject of consultation with Counsel prior to its completion and any breaches of the legal agreement would be dealt with appropriately.
- 5.8.4 There are listed buildings nearby, however, the proposal would have no significant impact on the setting of the listed buildings. The Conservation Officer has examined the proposals and agrees with this assessment.

6 CONCLUSION

- 6.1 The proposed scheme would result in a development for recreational fishing for the Monks Lakes facility. It would sit alongside existing lawful recreational fishing at Mallard Lakes with an existing car park and access road.
- 6.2 The scheme would not result in any significant planning harm in particular in relation to flooding, biodiversity, landscape impact or residential amenity.
- 6.3 There are no objections from statutory consultees on the proposal and the Council will ensure full implementation within an agreed timescale through a Section 106 agreement.

7. RECOMMENDATION

I BE DELEGATED POWER TO GRANT PLANNING PERMISSION subject, in so far as deemed necessary and appropriate, to the completion of a section 106 agreement to secure the full implementation of the approved scheme in accordance with an agreed timetable of works including a phasing implementation plan and subject to appropriate additional planning conditions including, in so far as necessary and appropriate, the following:

1. The development hereby permitted, including the re-grading of the embankments and the implementation of the submitted planting and management scheme, shall be implemented strictly in accordance with the approved plans.

Reason: The completion of the scheme in accordance with the consent is in the interests of the character and amenity of the countryside and the residential amenity of neighbours, in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

2. The development hereby permitted, including re-profiling of ground levels and re-grading of the embankments, shall be implemented in accordance with approved Method Statement received on 10/11/11.

Reason: The completion of the scheme in accordance with the consent is in the interests of the character and amenity of the countryside and the residential amenity of neighbours, in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

3. The importation of material to achieve the ground profiles hereby approved shall be carried out in accordance with the approved Method Statement received on 10/11/11

Reason: To ensure the protection of the residential amenity of neighbours in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

4. Prior to the importation of any material a fully detailed landscape plan, including planting consistent with the requirements of the Reservoirs Act the reduction in the prevalence of weeping willow, fencing and the protection of existing landscape features, shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall be completed in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to protect the nearby residents from loss of privacy associated with the permitted use of land, in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan (2000).

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out implemented prior to the use starting on any of lakes 1, 2 and 3 and in the first available planting season after the completion of lakes 1, 2 and 3, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with

others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan (2000).

6. The landscaping shall be maintained according to the approved landscaping management plan, boundary treatment plan and River Beult enhancement plan received on 10/11/11.

Reason: To ensure a satisfactory appearance to the development and to protect the nearby residents from loss of privacy associated with the permitted use of land, in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan (2000).

7. All vehicular access for the importation of material, vehicles for the re-profiling of the lakes and the embankments and the implementation of the planting proposals, will use the spur off the existing, access directly off the A229 (Staplehurst Road), as annotated on drawing number PDA-MON-103.

Reason: To protect the amenities of adjoining residents in accordance with policies ENV28 and T13 of the Maidstone Borough-Wide Local Plan (2000).

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

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

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

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policies ENV28 and T13 of the Maidstone Borough-Wide Local Plan (2000).

10. The development hereby permitted shall be used for recreational angling and purposes ancillary only.

Reason: An unrestricted use could cause harm to the residential amenity of neighbours and the character and amenity of the countryside, contrary to policies ENV28 of the Maidstone Borough-Wide Local Plan (2000).

11. There will be no angling between the hours of 22:00 and 07:00 (night time) in the areas marked on the layout plan PDA-MON-103.

Reason: To protect the nearby residents from loss of privacy associated with the permitted use of land, in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000).

12. There will be no parking on the lakeside in the areas around lakes 1, 2 and 3 as marked on the layout plan PDA-MON-103.

Reason: To protect the nearby residents from loss of privacy and potential disturbance associated with the permitted use of land, in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000).

13. All access will be via the existing consented access directly from the A229. There shall be no vehicular or pedestrian access to the site shall from Hertsfield Lane, and the boundary fencing shown on plan D118024-101-1004P2 shall be implemented prior to the commencement of the use of lakes 1, 2 and 3.

Reason: To protect the amenities of adjoining residents in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

14. There will be no overnight accommodation within the clubhouse and no persons shall sleep in the clubhouse at any time.

Reason: To prevent danger to human life in the event of a flood and to prevent inappropriate residential accommodation in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained within the National Planning Policy Framework (2012).

15. The clubhouse hereby approved will be for purposes ancillary to the use of the site for recreational angling and for no other purpose.

Reason: An unrestricted use could potentially cause harm to the residential amenity of neighbours and the character and amenity of the countryside, contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

16. No lighting shall be installed on the site without prior written consent from the Local Planning Authority.

Reason: To protect the character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

17. Prior to the importation of any material full details of the material and its origin shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall be completed in accordance with the approved details.

Reason: To prevent pollution of the environment in accordance with guidance contained within the National Planning Policy Framework (2012).

18. The proposed imported material shall be used in the construction of lake 1.

Reason: To prevent unnecessary movement of material within the site and to safeguard the level of amenity enjoyed by nearby residents in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

19. Prior to the importation of any material full details of the proposed drainage facilities to ensure that the surface water for the site is fully contained within the site are submitted to and approved in writing by the Local Planning Authority and the scheme shall be completed in accordance with the approved details.

Reason: In the interests of residential amenity in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

20. Surface water run-off during the construction phase shall be directed to Puma Lake and/or the proposed temporary settling pond.

Reason: To ensure sediment does not flow into the River Beult SSSI in accordance with guidance contained in the National Planning Policy Framework (2012).

21. All surplus water from the new lakes shall be directed to Puma Lake.

Reason: To ensure sediment does not flow into the River Beult SSSI in accordance with guidance contained in the National Planning Policy Framework (2012).

22. Prior to the stocking of lakes 1, 2 and 3 full details of the fish to be stocked in the lakes including species and whether capable of breeding, and full details of a catch fence to prevent fish from entering the river system shall be submitted to and approved in writing by the Local Planning Authority and the approved measures shall be put in place prior to the use of the lakes and maintained thereafter;

Reason: To prevent damage to the River Beult SSSI as a consequence of a flood event in accordance with policy NRM5 of the South East Plan (2009) and guidance contained in the National Planning Policy Framework (2012).

23. Foul water shall be passed through a Klargester system, which is to discharge to Puma Lake unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent damage to the River Beult SSSI in accordance with policy NRM5 of the South East Plan (2009) and guidance contained in the National Planning Policy Framework (2012).

Informatives set out below

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

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

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

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

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

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any

noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

The developer will be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development.

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.

Annex 1

Maidstone Borough Council

Planning Consultation Response Sheet

Dear Peter Hockney

Our view on application MA/11/1948 is that we:

- Do not wish to OBJECT/COMMENT.
- Wish to see the application APPROVED and REQUEST the application is reported to Planning Committee.
- Wish to see the application APPROVED but DO NOT REQUEST the application is reported to Planning Committee
- Wish to see the application REFUSED and REQUEST the application is reported to the Planning Committee for the planning reasons set out below
- Wish to see the application REFUSED for the planning reasons set out below but DO NOT REQUEST the application to be reported to the Planning Committee

(indicate as appropriate)

ARE THERE ANY PLANNING CONDITIONS THAT WOULD EITHER OVERCOME YOUR OBJECTIONS TO THE PROPOSAL OR, IF YOU WISH TO SEE THE APPLICATION APPROVED, YOU WOULD WANT TO SEE IMPOSED?

PLEASE SET THESE OUT BELOW:

Conditions (if applicable):

Planning Reasons for Committee Call-in (if applicable):

REFUSAL: to go to Committee. Cllrs wished to see refusal of the 3 new lakes due to the adverse impact upon visual amenity, residential amenity and the wider countryside. Particular concern was raised regarding the flooding risk due to the loss of storage in the flood plain and the , potentially contaminated soil already on site and consequently the absence of any justification for the further importation of potentially contaminated matter This has led to further concerns regarding the potential and/or existing ground and surface water contamination. It is also noted that any Environmental Statement should relate to the site BEFORE the potentially contaminated soil was imported - this is thought to be 2003. Any EIA must include an assessment of the soils that have already been imported into the site not just those the applicant might want to import. Cllrs will be making further comment on the application

specifically relating to the 2 existing lakes and these comments will be sent after the next meeting of the planning committee on 7th February 2012 and we therefore request an extension of time.

Signed *Amanda Causer* Date 20th January 2012
On behalf of Marden Parish Council

Maidstone Borough Council

Planning Consultation Response Sheet

Dear Peter Hockney

Our view on application MA/11/1948 is that we:

- Do not wish to OBJECT/COMMENT.
- Wish to see the application APPROVED and REQUEST the application is reported to Planning Committee.
- Wish to see the application APPROVED but DO NOT REQUEST the application is reported to Planning Committee
- Wish to see the application REFUSED and REQUEST the application is reported to the Planning Committee for the planning reasons set out below
- Wish to see the application REFUSED for the planning reasons set out below but DO NOT REQUEST the application to be reported to the Planning Committee

(indicate as appropriate)

ARE THERE ANY PLANNING CONDITIONS THAT WOULD EITHER OVERCOME YOUR OBJECTIONS TO THE PROPOSAL OR, IF YOU WISH TO SEE THE APPLICATION APPROVED, YOU WOULD WANT TO SEE IMPOSED?

PLEASE SET THESE OUT BELOW:

Conditions (if applicable):

Councillors have concerns about possible loss of storage in the flood plain and potential escape of non native species into the river. We ask that the Borough Council get specialist advice from the Environment Agency and Natural England. The Clubhouse and car park need to be commensurate in size with the development they have to serve and this remains undetermined. If it is approved then a shop should be allowed only to sell products relating to recreational angling.

Planning Reasons for Committee Call-in (if applicable):

Signed *Amanda Causer* Date 11th February 2012
On behalf of Marden Parish Council **14/7**

Maidstone Borough Council

Planning Consultation Response Sheet

Dear Peter Hockney

Our view on application MA/11/1948 is that we:

- Do not wish to OBJECT/COMMENT.
- Wish to see the application APPROVED and REQUEST the application is reported to Planning Committee.
- Wish to see the application APPROVED but DO NOT REQUEST the application is reported to Planning Committee
- Wish to see the application REFUSED and REQUEST the application is reported to the Planning Committee for the planning reasons set out below
- Wish to see the application REFUSED for the planning reasons set out below but DO NOT REQUEST the application to be reported to the Planning Committee

(indicate as appropriate)

ARE THERE ANY PLANNING CONDITIONS THAT WOULD EITHER OVERCOME YOUR OBJECTIONS TO THE PROPOSAL OR, IF YOU WISH TO SEE THE APPLICATION APPROVED, YOU WOULD WANT TO SEE IMPOSED?

PLEASE SET THESE OUT BELOW:

Conditions (if applicable):

Councillors would like clarification of how the applicant proposes to fill the new raised lakes and wonder whether the Environment Agency is content with any extraction from the river Beult in this period of drought?

Planning Reasons for Committee Call-in (if applicable):

Signed *Amanda Causer* Date 21st May 2012
On behalf of Marden Parish Council

Maidstone Borough Council
Development Control Section
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Our ref: KT/2011/113792/01-L01
Your ref: MA/11/1948
Date: 21 December 2011

Dear Sir/Madam

PART RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF TWO LAKES KNOWN AS BRIDGES AND PUMA AND WORKS TO CREATE 3 ADDITIONAL LAKES ALL FOR RECREATIONAL FISHING, ERECTION OF CLUBHOUSE BUILDING AND ASSOCIATED WORKS AND LANDSCAPING.

MONKS LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE, KENT, TN12 9BU.

Thank you for your consultation on this application, received on 21 November 2011.

We **object** to the application for the following two reasons:

1. We consider it highly unlikely that the development would be granted the necessary Environmental Permit.
2. The Environmental Statement does not adequately assess the risks to the natural environment.

Importation of fill material

As you will be aware, we have been involved in discussions regarding this site for a number of years, and have previously expressed our concern regarding any additional importation of fill material.

In July 2010 we welcomed the applicant's stated commitment to complete the works without importing any more fill material from off-site; and we advised that we would be requesting that this be made a condition of any subsequent planning permission. We are therefore extremely disappointed that the applicant is now proposing to import an additional 51,000 m³ of fill material.

Environmental Permitting

We are the regulatory authority in respect of waste disposal, and we control this activity by issuing Environmental Permits (previously called Waste Management Licences) or registering exemptions.

The Riverfield (Monks Lakes) site was subject to a Paragraph 19a Waste Exemption, originally granted in February 2004 under Paragraph 3 of the Waste Management Licensing Regulations 1994. This original exemption was in respect of an estimated 1.5 million tonnes of material. In general terms, this allowed the recovery of waste for 'relevant work' in accordance with any requirement in or under the Town and Country Planning Act 1990. In this case the exemption was registered in relation to the creation of a 'recreational facility'. The exemption was renewed in March 2007 for a further 1 million tonnes of material.

On the 6 April 2010, new regulations came into force that changed the waste licensing system. Anyone applying to register a new exempt waste operation on or after the 6 April 2010 has to register under the new 'Environmental Permit' system. We can confirm that there is currently no exemption in place for Monk Lakes, and the importation of further fill material will be subject to the new regulations.

The new regulations have greatly reduced the potential risks associated with exemptions. The 'paragraph 19' exemption has now been replaced with the 'U1 exemption'. Unlike the 19, the U1 has a specified limit of 1,000 tonnes per year of soils and 5,000 tonnes per year of materials such as aggregates. Therefore, any activity using more than 1,000 or 5,000 tonnes of waste for construction will need to get an Environmental Permit. As such, the proposed importation of material for this planning application will need an Environmental Permit.

There are some 'standard rules' permits available for the use of waste for construction and the reclamation, restoration or improvement of land, but they have a maximum limit of 100,000 tonnes amongst other stringent limits. They would also need to satisfy the new 'recovery test' by demonstrating that they are recovering the waste (e.g. it is replacing a viable virgin material, there are not excessive quantities, it is suitable for its purpose, etc). We are not convinced Monk Lakes would fall under this limit or pass the test. It is also important to note that standard rules permits may not be registered if the activities are to be carried out within 500 metres of a Site of Special Scientific Interest (SSSI).

It is therefore likely that the proposal would need a landfill permit. This would need to comply with the Landfill Regulations (gas monitoring, Waste Acceptance Criteria testing, etc) and, in addition, the permit operators will need to be technically competent (so will need to sit exams) and should not have any previous relevant offences.

All permits also need to have full planning permission and are subject to extensive consultation before we issue them. As detailed above, the regulations have tightened up considerably for this type of activity. However, it may be possible to overcome these concerns by removing any unusable extant material from the site. If appropriate, we would encourage the applicant to contact us and discuss this as soon as possible.

Biodiversity

Government policy on planning and nature conservation as set out in Planning Policy Statement 9 (PPS9) requires that planning decisions should prevent harm to nature conservation interests (Key Principles paragraph 1ii). This has not been demonstrated in the present application as the assessment submitted does not properly address the

issues. In particular:

- * There is no assessment of the impacts of discharges from the lakes during rainfall events or maintenance operations.
- * There is no information on which fish species will be stocked in the new lakes. The site is partially in the floodplain and will also have emergency spillways. This would mean that species not native to the River Beult must not be stocked at this location due to the risk of escape into the river.
- * The use of native wild flower/grass mixes is not a standard grass mix used around reservoirs. Before this can be considered an ecological enhancement to the site, an agreement from the Reservoir Engineer that this mix is suitable should be included in the planning application/environmental statement.
- * The information provided with the landscaping scheme suggests that fertilizer applications will be used on reseeded areas. This would be detrimental to the areas that are sown with wild flower seed mixes, as it would favour coarse grass species. This suggested practice is therefore contrary to the proposed ecological benefits of seeding the site.

The Environmental Statement should also explore ways of enhancing the environment. Planning Policy Statement 9 (PPS9) states that "*Planning policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests*". To improve the water quality of any run off and discharges to the river, it is recommended that the lowered area of habitat close to the River Beult is turned into reedbed habitat. This would provide a filter area from the fishing lakes, prior to discharging into the river.

SSSI

Please note that although Natural England are the lead authority for designated SSSI sites, the River Beult is classed as a 'main river' and therefore we also have a lead authority role. As such, we will need to be consulted on the results of any survey submitted in connection with this application, on any design changes, additional mitigation, compensation or enhancement measures that might subsequently be proposed.

Otters

The application makes no mention of the risk of predation by otters. Whilst this will not affect the determination of this planning application, we recommend that all fishery owners consider the potential implications of otters utilising their sites in the future, and ways they can legally protect their business from unwanted predation. Otters are increasing in number throughout England and Wales, as they make their recovery from a historic near-extinction. The owners of fisheries should consider which methods are best for their site to reduce these impacts, and prepare for these costs in advance.

Water resources

It is proposed that the lakes are filled directly by rainwater falling onto them. This is acceptable in principle. However, we have concerns regarding the length of time they will take to initially fill and that during dry periods, water levels in the lakes will be unsustainable, leading to the site operator seeking water from elsewhere.

Please note that we are unlikely to issue an abstraction license for water to be taken from the River Beult or from the ground, and so consideration needs to be given as to where any alternative source may come from.

It is recommended that a water use strategy is developed that combines these additional lakes with the rest of the site in the same ownership so that there is a better understanding of the water requirements of the development as a whole. Using one or more of the new lakes as storage reservoirs for summer water supplies for the rest of the site may be a practical and sustainable solution.

Flood Risk

The Flood Risk Assessment (FRA) submitted for MA/11/1948 proposes a change in approach from the earlier (2002) application.

Initially, it was proposed that the extent of Zone 3 be defined and that any works riverward of this line (i.e. within Zone 3) be below ground level, and any works landward of this line (i.e. within Zones 2 and 1) be above ground level. This approach was agreed as it minimised the chance of the development increasing the flood risk, due to the displacement or obstruction of flood water.

However, we later had concerns as it appeared material had been deposited on the 'wrong-side' of the line, raising land levels within the floodplain and displacing floodwater. As such, in February 2008 we commissioned Mott McDonald to assess the impact on flooding of the (then) recent site works at Riverfield Fish Farm. The basis of the assessment was to compare topographic (land level) information obtained by remote sensing in March 2002 with similar information obtained in January 2008. Mott McDonalds conclusion in June 2008 was that the site works had increased flood water levels and flood extents.

Instead of avoiding the deposition of material in the floodplain, the new FRA accepts that material will be deposited in Zone 3 (at the foot of Lake 3) and that therefore compensation storage will need to be provided. This approach is acceptable in principle, but we will require further evidence and calculations to clearly demonstrate that the flood risk will not be increased.

If your council is minded to grant permission we request that we are re-consulted in order to agree a suitable condition to cover these concerns.

Reservoirs Act

Large lakes that contain water 'above natural ground' generally need to comply with the requirements of the Reservoirs Act 1975. Currently, all reservoirs capable of holding more than 25,000 m³ of water above natural ground level (being held back by a bund or dam) are required to have a contracted Supervising Engineer at all times and periodically an Inspecting Engineer must be appointed to inspect the reservoir. We are the Enforcement Agency for this and we are currently in discussion with the appointed Supervising Engineer regarding the requirements of the Reservoirs Act.

One area of possible contention between the Reservoirs Act and Town & Country Planning requirements is in respect of landscaping. It is often a requirement of planning to provide tree screening to make a proposal visually acceptable within the landscape. However, the Reservoirs Act often requires water retaining embankments to be relatively tree free to ensure stability and ~~as~~ inspection. We would be pleased to offer further advice on this aspect if required.

Bridges and Puma Lakes

For reference, we were consulted on planning application (MA/10/0766) for these two lakes and replied to Maidstone Borough Council on 1 July 2010. We raised no objection to this proposal on the basis that the two lakes were at ground level and involved no land raising or embankments. We would have objected had this not been the case.

Now that the Bridges and Puma lakes are being proposed as part of the floodwater compensation storage, it is even more imperative that floodwater is allowed to enter these lakes.

Surface water drainage

The application form makes reference to surface water discharging to soakaway. In other documents however, reference is also made to drainage channels being used to divert run-off to the River Beult. Due to the relatively impermeable nature of the underlying geology, soakaways are unlikely to provide adequate soakage, and we would not recommend their use at this location.

Foul drainage

The applicant is advised to contact our National Customer Contact Centre on 08708 506 506 to discuss whether a permit would be required for the Klargest system proposed to deal with the foul drainage from the site.

Environmental Impact Assessment

The application states that Maidstone Borough Council informed the applicants in October 2010 that the proposal would need to be accompanied by an Environmental Statement, but we were not contacted with any scoping documentation.

Although there is no legal requirement for scoping consultations, we are disappointed that the applicants chose not to engage in this process, as it can help to clarify issues concerning key environmental issues and proposed methods for survey, evaluation and assessment.

Yours faithfully

Miss Michaela Kennard
Senior Planning Liaison Officer

Direct dial 01732 223204

Direct e-mail michaela.kennard@environment-agency.gov.uk

cc Parker Dann

Mr Peter Hockney
Maidstone Borough Council
Development Control Section
Maidstone House King Street
Maidstone
Kent
ME15 6JQ

Our ref: KT/2012/114334/01-L01
Your ref: MA/11/1948
Date: 23 March 2012

Dear Peter

Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping.

- **Amended Flood Risk Assessment V9, February 2012;**
- **Surface Water Management Strategy;**
- **Extended Phase 1 Habitat Survey Ecological Report January 2012**

Monks Lakes, Staplehurst Road, Marden, Maidstone, Kent, TN12 9BU

Thank you for consulting us on the above additional information requested in our letters, references KT/2011/113792/01 and 02, dated 21 December 2011 and 19 January 2012 respectively.

We also acknowledge that we were provided with additional clarification on certain matters at a meeting we had with Tezel Bahcheli and Nick Reilly on 27th February 2012.

Based on the information provided to date, we can confirm we are in a position to **remove our objection**. However, we draw your attention to the following comments.

Environmental Permitting

From the information received, we believe the applicant will have to obtain a bespoke environmental permit (permit) for the importation and deposition of the 51,000m³ of additional waste material.

This permit will have to be in place prior to any waste activities taking place on site. The permit will cover the operation of the site whilst the lakes are being constructed, including, waste acceptance (quantities, type/criteria, etc), pollution prevention measures, drainage, monitoring (gas, surface waters, noise, dust), and post-operation monitoring requirements.

As previously briefly outlined in our letter to ~~124~~ dated 21 December 2011, the applicant

will need to demonstrate that they are a 'fit and proper' person to hold a permit. To do this they will be required to show that they are technically competent (have obtained a Certificate of Technical Competence from WAMITAB), ensure there is adequate financial provision available to address any incidents that on site and to cover long term monitoring requirements, and also have no relevant convictions. Failure to meet these requirements will mean a permit can not be issued by us to them.

A permit will only be issued if we are fully satisfied that the site can be operated without there being a risk of pollution of the environment, harm to human health or detriment to the surrounding amenity.

Flood Risk

We had previously requested that the Flood Risk Assessment (FRA) be amended to:

1. show the width of the area to be lowered between Lake 3 and the River Beult as 100m as in the detailed calculations, with a corresponding volume of floodplain storage of 6,000m³.
2. demonstrate how floodwaters from the River Beult can reach Puma Lake and Bridges Lake in order to access any floodplain storage provided by these lakes.

These amendments have been made to the submitted FRA, version 9 dated February 2012, as such we have no objection.

Fisheries and Biodiversity

The details within the WRMS (section 3.2) also state that essentially no additional abstraction of waters from the River Beult will be required to help maintain water levels in the lakes unless water flows allow. This was confirmed at our meeting on the 27th February 2012 with Tezel Bahcheli and Nick Reilly the engineer for this proposal. On that basis we have no objection to the proposal, as there should not be any significant impact on the River Beult's water level and ecology as a result of this proposal.

It should be noted that any permit issued by us will take account of the proximity to of the proposed activity to the River Beult SSSI.

Water Resources

There are a few points that the applicant needs to be aware of regarding water supply for the fishing lakes.

If the applicant believes they can fill the lakes without the need to utilise or amendment to their existing abstraction licence then we have no objection, the reason being as follows:

The current site does have an abstraction licence (06/094) for the site to fill the lakes during the winter months only (October to March only). However, this licence has a Hands off Flow Condition (HOF) set at the Teston gauging station preventing any abstraction to take place when flows drop to 890MI/d. The Teston HOF condition is applied regularly on most years and has been on during last Summer and through-out this winter (and remains on), meaning there was no opportunity to fill the lakes this winter through their abstraction licence.

Based on the calculations within the ~~SWMS~~ ^{WRMS}, with an estimated 25,000m³ 'skimming off' from the existing 7 lakes (Puma, Bridges, Mallard & 4 Match lakes) it would take nearly 7 years to fill the 3 new lakes which have a capacity of 168,000m³.

It should be noted that based on the last couple of years rainfall, there is a real possibility the existing lakes may not be able to reliably and sufficiently refill during the winter for subsequent filling of the new lakes. February 2011 to January 2012 has been the second driest since 1911, receiving in total only 513.2 mm. It therefore may take longer than 7 years to fill the lakes via rainfall collection only as proposed.

The applicant will also need to consider when and how they will routinely drain down and refill the lakes in the future. This should also be addressed within the WRMS.

We do have concerns over how the whole site will operate successfully in the future, bearing in mind the information we have provided above, however if the applicant wishes to and believes they can operate their site in this way that is their decision.

We also wish to reiterate other matters raised within our letter to you dated 21 December 2012 (Reference KT/2011/113792/01) relating to the Reservoir Act, surface water drainage, foul drainage and the Environmental Impact Assessment. These also need to be taken into consideration.

In conclusion, we hope we have made it clear that in addition to any planning consent that may be granted, the applicant will be required to obtain an environmental permit and reservoir approval from us prior to any waste activity taking place on site. We have already made them aware that due to the current water levels within the River Beult, future abstraction from the river is unlikely to be permitted.

Please also be aware that whilst we are no longer objecting to this planning application, it does not mean or guarantee that, other permissions will be forthcoming.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely

MS JENNIFER WILSON
Planning Liaison Technical Specialist

Direct dial 01732 223272

Direct fax 01732 223289

Direct e-mail jennifer.wilson@environment-agency.gov.uk

cc Parker Dann

Date: 10 January 2012
Our ref: 39070
Your ref: MA/11/1948



Peter Hockney
Development Control
Maidstone Borough Council
Maidstone House
King Street
Maidstone
ME15 6JQ

International House
Dover Place
Ashford
Kent
TN23 1HU

By email only, no hard copy to follow

Dear Mr Hockney

River Beult Name Site of Special Scientific Interest (SSSI)

Location: Monks Lakes, Staplehurst Road, Marden, Maidstone, Kent TN12 9BU
Proposal: Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping.

Thank you for your letter dated 21 November 2011 consulting Natural England about the above application.

The application site is likely to affect the River Beult SSSI. This reply comprises our statutory consultation response under provisions of Article 20 of *the Town and Country Planning (Development Management Procedure) (England) Order 2010* and Section 28 of the Wildlife and Countryside Act 1981 (as amended).

Natural England has considered the information provided in support of this application and objects to the above proposal on the grounds that there is insufficient information to determine the impact on the River Beult SSSI.

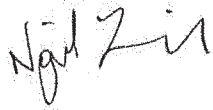
Natural England's detailed comments in relation to this proposal are listed in Annex One appended to this letter.

Under S281 of the Wildlife and Countryside Act 1981 your authority must take Natural England's advice into account in deciding whether or not to grant permission. If your authority resolves not to follow this advice then it must notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, it has taken our advice into account. You must then allow a further period of 21 days before the development can commence to allow us to consider any further action. For further details of these requirements, and a summary of the legislations protecting SSSI's and the duties which apply to planning authority, please refer to Part II of Circular 06/2005¹.

¹ Government Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system ODPM Circular 06/2005/Defra Circular 01/2005
<http://www.communities.gov.uk/publications/planningandbuilding/circularbiodiversity>

We would be happy to comment further should the need arise but if in the meantime you have any queries, please do not hesitate to contact Nigel Jennings at the above address, by telephone on 0300 060 4787 or by email to nigel.jennings@naturalengland.org.uk

Yours sincerely



On behalf Lorraine Huggett
Land Use Operations, Ashford Team Leader

Annex One: Natural England's detailed comments in relation to planning application reference MA/11/1948

As mentioned above, our records show that the application site is adjacent to the River Beult SSSI. As you are aware, where SSSIs are involved, Section 28G of the Wildlife and Countryside Act 1981 (as amended) includes a duty on public bodies, including local planning authorities, to "take reasonable steps, consistent with the proper exercise of the authority's functions, to further conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest". In addition, public bodies are required under the Act to give notice to Natural England before carrying out (S28H), or authorising others to carry out (S28I), any operation likely to damage any of the features by reason of which the site is of special scientific interest.

Natural England objects to the proposed development. We recommend that as submitted the local planning authority refuse planning permission on the grounds that the application contains insufficient information to satisfy Natural England that there would be no adverse effects on features of interest for which the SSSI is notified. In order to assess the potential implications for the SSSI, any subsequent or amended planning application should include the following additional information:

- 1. Clarification on the water resources required to fill and operate the lakes.** The Environmental Statement (ES) indicates that lakes 1, 2 and 3 will be filled direct from rainfall. However, Met Office statistics for the area indicate an average annual rainfall of between 60 and 80 cm. At a maximum depth of 2m it could take over 2 years for the lakes to be filled, even if evaporation is ignored. During extended dry periods in the summer water levels may be unsustainable and extraction from the River Beult will not be an option. Consequently we would expect to see a drought plan.
- 2. Details of the methods to be adopted to prevent sediments from surface water run-off entering the River Beult during construction.** Given the proximity of the River Beult to the proposed earthworks there is a risk that during periods of excessive rain sediments may be mobilised and washed into the River Beult SSSI.
- 3. Details of the proposed discharge of waters to the River Beult.** Section 12.40 of the ES refers to excess waters from lakes 1, 2 and 3 being discharged to the River Beult. No details are given on the anticipated volume of discharge or whether there will be a need for these to be filtered/treated to prevent pollution of the River Beult SSSI from elevated levels of sediment and/or nutrients.
- 4. Details on the methods to be adopted for the draining and dredging of the lakes.** Section 13.101 of the ES states that the lakes may need to be drained and dredged periodically to manage fish and aquatic flora. No details have been provided on how these operations will be carried out to prevent sediments and/or nutrients entering the River Beult SSSI.
- 5. Details of the anticipated discharge from the Klargester system proposed to deal with foul drainage from the site, and how the nutrients from the discharge will be prevented from entering the River Beult SSSI.**
- 6. Details of the fish species to be stocked in the lakes and the methods to be adopted to prevent alien species (if present) entering the River Beult SSSI during flood events.**

Other Matters

Landscape Management Plan

We welcome the proposal to create wildflower rich grassland as part of the landscaping. However, we note that the maintenance schedule indicates that the grass will have an annual dressing of fertilizer. This would encourage coarse grasses to the detriment of the wildflowers and is therefore at odds with the stated ecological aims.

Protected Species

The information supplied in support of the application highlights the impacts resulting from this proposal upon widespread reptiles. Detailed advice on survey effort and mitigation requirements for these species can be found within our protected species standing advice available from <http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx>. In accordance with our standing advice, we recommend that you consult the standing advice to establish whether sufficient survey effort has been undertaken to fully assess the impacts of this proposal along with the appropriateness of any necessary mitigation measures proposed in respect of reptiles.

Date: 2 April 2012
Our ref: 48612
Your ref: MA/11/1948



Peter Hockney
Maidstone Borough Council
Maidstone House
King Street
Maidstone
ME15 6JQ

Natural England
Consultation Service
Hornbeam House
Electra Way
Crewe Business Park
CREWE
CW1 6GJ

T: 0300 060 3900

By email only, no hard copy to follow

Dear Mr Hockney

River Beult Site of Special Scientific Interest (SSSI)

Proposal: Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create three additional lakes for recreational fishing, erection of clubhouse building and associated works and landscaping
Location: Monks Lakes, Staplehurst Road, Marden, Kent TN12 9BU

Thank you for your letter dated 15 March providing additional information on the above application following our previous letter dated 10 January.

The application site is likely to affect the River Beult SSSI. This reply comprises our statutory consultation response under provisions of Article 20 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and Section 28 of the Wildlife and Countryside Act 1981 (as amended).

Having considered the additional information **Natural England withdraws its objection dated 10 January 2012**. This is on the basis that there is no additional abstraction of waters from the River Beult to maintain water levels (per section 3.2 of the Water Resource Management Strategy), inclusion of the conditions listed below and the proposals being carried out in strict accordance with the terms of the application and the submitted plans.

- Surface water run-off during the construction phase to be directed to Puma Lake and/or the proposed temporary settling pond in order to prevent sediments flowing into the River Beult SSSI.
- Surplus waters from the new lakes to be directed to Puma Lake.
- The existing fish fence is to be extended around the proposed new lakes to prevent the escape of fish to the River Beult SSSI during flood events.
- Foul water to be passed through a Klargestor system which is to discharge to Puma Lake.

We note the Environment Agency's comments on water resources in their letter dated 23 March and would add our reservations about the ability of the applicants to successfully manage the site in the future given the constraints on water. However, this is a commercial decision that the applicant will need to make.

If your authority decides to allow the development without applying the requirements/conditions set out above it must notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, it has taken our advice into account. It must then allow a further period of 21 days before the development can commence to allow us to consider any further action. For

further details of these requirements, and a summary of the legislation protecting SSSI's and the duties which apply to planning authorities, please refer to Part II of Circular 06/2005¹.

Protected Species

The information supplied in support of the application highlights the impacts resulting from this proposal upon widespread reptiles. Detailed advice on survey effort and mitigation requirements for these species can be found within our protected species standing advice available from <http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx>. In accordance with our standing advice, we recommend that you consult the standing advice to establish whether sufficient survey effort has been undertaken to fully assess the impacts of this proposal along with the appropriateness of any necessary mitigation measures proposed in respect of reptiles.

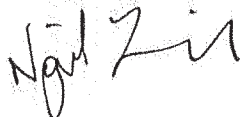
Summary and conclusion

Subject to the inclusion of the above conditions and the proposals being carried out in strict accordance with the terms of the application and the submitted plans, Natural England has no objections to this proposal at present. Should there be any modification or amendment to the application, however, which may affect the SSSI, Natural England must be consulted further.

Natural England would be grateful if the Council were to inform us as to how our advice has been incorporated into the decision made when determining this application.

For any correspondence or queries relating to this consultation only, please contact Nigel Jennings at International House, Dover Place, Ashford, Kent TN23 1HU, by telephone on 0300 060 4787 or by email to nigel.jennings@naturalengland.org.uk. For all other correspondence, please contact the above address.

Yours sincerely



Nigel Jennings
Lead Adviser
Direct Dial: 0300 060 4787
Fax: 0300 060 4798
E-Mail: Nigel.jennings@naturalengland.org.uk

¹ Government Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system ODPM Circular 06/2005/Defra Circular 01/2005
<http://www.communities.gov.uk/publications/planningandbuilding/circularbiodiversity>

Our ref: 865425
Your ref: 11/1948

20 December 2011

P Hockney
Development Control
Maidstone Borough Council
Maidstone House
King Street
Maidstone
ME15 6JQ



Kent Wildlife Trust
Tyland Barn
Sandling Maidstone
Kent ME14 3BD
Tel: (01622) 662012
Fax: (01622) 671390

info@kentwildlife.org.uk
www.kentwildlifetrust.org.uk

Dear Peter

Monks Lakes, Staplehurst Road, Marden

Thank you for the opportunity to comment on this retrospective application.

I welcome the Council's decision, in response to application 10/0766, to insist on the preparation of a replacement application supported by an Environmental Impact Assessment. The rigour of this assessment and, no doubt, detailed discussions with the Council and the EA, appear to have encouraged the applicant to better focus on the opportunities for biodiversity enhancement.

In response to the earlier application, I had expressed concerns about the risk of non-native fish stock and aquatic vegetation escaping into the River Beult and the long term management of the open areas of the site. The flood risk assessment and the landscape scheme for the site, including a re-profiling of the river bank, deal with those concerns. I am generally satisfied with the revised proposals.

There are, however, three points of detail that I would bring to your attention.

The Council should satisfy itself, in consultation with Natural England, as necessary, that protected species living in vicinity of Puma and Bridges Lakes (see paragraph 24, ES, non-technical summary) will be safeguarded during the bank re-profiling works. Of these species, water voles and reptiles are likely to be the most sensitive to these works.

The choice of beech as part of the Dense Woodland Mix for the boundary belt is surprising. Beech is primarily associated with chalk soils.

The Maintenance Schedule should incorporate a commitment to monitor specified habitat and species targets chosen to demonstrate the biodiversity enrichment achievements of the landscaping scheme.

In conclusion, then, I have no objection, in principle, to the grant of planning permission, subject to the imposition of conditions to secure the timely implementation of biodiversity enhancement prescriptions and the careful and meaningful monitoring of their success. Unfortunately, the schedule of suggested planning conditions falls short in the following ways.

Conditions 1, 2 and 3 – fail to specify WHEN the re-grading and planting would be carried out. They should cross-refer to condition 4 to achieve this.



Condition 6 appears to suggest that “protection of existing landscape features” will be implemented “in the first planting season after the completion of lakes 1, 2 and 3”. Protection measures must be implemented before any works start. Furthermore, I would argue that the riverbank re-profiling should be undertaken prior to the commencement of work on lakes 1, 2 and 3 so that the arisings from it can contribute to the fill needed to reduce the depth of these lakes.

To avoid disturbance to wildlife (during foraging and commuting), the artificial illumination of the lakes and the river bank must be prevented by planning condition.

Yours sincerely

Keith Nicholson
Planning & Conservation Officer

**ENTERPRISE AND ENVIRONMENT DIRECTORATE
PLANNING AND ENVIRONMENT DIVISION**



TO: Peter Hockney

FROM: Stefanie Buell

DATE: 30th March 2012

SUBJECT: MA/11/1948 Monks Lakes, Marden

Thank you for the opportunity to comment on this application. We have the following response to make:

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.

The National Planning Policy Framework states that “*the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.*”

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.*’

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.

This application is accompanied by an Environmental Statement which includes an *Extended Phase 1 Habitat Survey Ecological Report* and *Reptile Survey Report*. While the reports refer to a Phase 1 habitat map, no such map is included within the documents and there are limited site photographs included; as such it has been difficult to adequately verify the findings of the report.

It appears that the proposed development holds limited potential for ecological impacts. The reptile survey was undertaken primarily on the basis of existing biological records

nearby as the site is assessed as having limited potential for reptiles. The reptile survey was not undertaken to best practice guidelines, and with no reptiles recorded does not on its own provide sufficient evidence for the likely absence of these species. However, in combination with the habitat assessment, we are satisfied with the current assessment of likely absence.

We advise that the undeveloped site has potential to increase in its suitability for reptiles; if the development process is delayed further it will be necessary to undertake additional reptile surveys to ensure that no animals have moved on to the site. Mitigation measures may be necessary to avoid the killing or injuring of reptiles. We recommend that this information is provided to the applicant as an informative; for the determination of the application at this time, we are satisfied that Maidstone BC does not have to consider potential impacts to reptiles as a material consideration.

We advise that the recommendations in relation to avoiding impacts to nesting birds (section 5.1 of the *Extended Phase 1 Habitat Survey Ecological Report*) are undertaken.

One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. The landscaping strategy incorporates the use of native species planting, which we support. We also advise that a habitat management plan is required as a condition of planning, if granted. The implementation of a suitable plan, incorporating timing of management prescriptions, will ensure that all appropriate areas of the site are managed to secure optimal wildlife benefits.

If you have any queries regarding our comments, please contact me.

Stefanie Buell MIEEM
Biodiversity Projects Officer

Maidstone Borough Council
Heritage, Landscape and Design
Planning Consultation Response Sheet (L)

For admin. use	
Date logged:	21/11/2011
21 day completion:	Yes
If no, timescale is:	
Original MA ref (conditions):	MA/ /
Time allocation:	5 hours

FAO (Case Officer): Peter Hockney
Application No.: MA/11/1948

Address of site: MONKS LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE
Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping.
Application for: Full planning permission

Type of consultation: Automatic

Reason for consultation:

- Major application
- Trees (protected)
- Trees/hedges (other)
- Landscape scheme

- Conservation area
- Design advice
- Additional comments
- Planning committee report

- Appeal
- Not known

Comments:

This site falls within the Valley landscape character type and area 58 (Beult Valley) of the new Maidstone Landscape Character Assessment, March 2012. Paragraph 58.7 makes specific mention of the site as follows:

'In the middle of the area, at Monk Lakes and Riverfield Fish Farms there is an extensive system of man made rectangular ponds. As part of this development, there has been extensive land raising and earth modelling along the A229 and the artificial sloping landform appears rather incongruous on the valley side.'

It also mentions that extensive planting of weeping willow adds to the artificiality of the landscape.

In the wider context of Valley landscapes the associated generic guidelines are to:-

Conserve, and manage as appropriate, the dominance of willow as a key species along the river, and avoid planting new species of willow that are not considered to be locally appropriate species.

Enhance rivers and associated tributaries, ditch and pond networks by promoting natural corridors along the lengths of watercourses and water bodies.

Conserve the unfenced interface between the land and river.

The summary of actions for area 58 refers to the Valley landscape generic guidelines as stated above and includes the following more specific actions:

Conserve and restore habitat opportunities around water bodies and ditches by promoting and managing a framework of vegetation with links to the river

Integrate the fishing ponds into the landscape by using more appropriate plant species. Resist further artificial earthworks.

As the proposal is to reduce the average height of mounds and includes a comprehensive landscape scheme to help mitigate the incongruous nature of the development there are no landscape grounds on which to object to this proposal. I would, however, wish to see further consideration of the issues mentioned above, particularly in respect of the finer details of the landscape proposals. These can clearly be dealt with by condition if you are minded to grant consent for this application.

If the application is being determined by Planning Committee, or by Members under delegated authority, and makes reference to any of the issues outlined above, a further commentary will be provided.

Signed: Deanne Cunningham

Date:25/04/12

Maidstone Borough Council
Heritage, Landscape and Design
Planning Consultation Response Sheet (C)

For admin. use	
Date logged:	21/11/2011
21 day completion:	Yes
If no, timescale is:	
Original MA ref (conditions):	MA/ /
Time allocation:	30 mins

FAO (Case Officer): Peter Hockney
Application No.: MA/11/1948

Address of site: Monks Lakes, Staplehurst Road, Marden
Application for: Full planning permission

Type of consultation: Automatic			
Reason for consultation:			
<input type="checkbox"/> Major application	<input type="checkbox"/> Conservation area	<input type="checkbox"/> Locally listed building	<input type="checkbox"/> Not known
<input type="checkbox"/> Listed building	<input type="checkbox"/> Setting of Conservation area	<input type="checkbox"/> Registered park/garden	
<input checked="" type="checkbox"/> Setting of Listed building	<input type="checkbox"/> Planning Committee report	<input type="checkbox"/> Scheduled ancient monument	
<input type="checkbox"/> Curtilage of Listed building	<input type="checkbox"/> Additional comments	<input type="checkbox"/> Design advice	
<input type="checkbox"/> Agricultural conversion	<input type="checkbox"/> Non-designated heritage asset	<input type="checkbox"/> Appeal	

Comments:

The existing and proposed lakes have no adverse impact on the settings of listed buildings in the vicinity. However, given the substantial amount of excavation proposed I would recommend that we consult with KCC heritage section regarding archaeological impact prior to determination.

Recommendation

It is, therefore, recommended that on heritage/ design grounds **NO OBJECTION BE RAISED** subject to any comments from KCC Heritage Section.

Signed: Mike Parkinson

Date:06/12/2011



Maidstone Borough Council
Maidstone Planning Department c/o Rob Jarman
King Street
Maidstone
Kent
ME15 6JQ

Kent Highway Services
Ashford Highway Depot
Henwood Industrial Estate
Javelin Way
Ashford, Kent
TN24 8AD

E-mail: louise.rowlands@kent.gov.uk
Direct Line: 08458 247800
Fax:
Ask For: Louise Rowlands
Your Ref: PH
Our Ref: LR
Date: 14 December 2011

Dear Sir / Madam

Application Ref: **MA/11/1948**

Parish: **Marden**

Applicant:

Location: **MONKS LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE, KENT, TN12 9BU**

Proposal: **Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping.**

I refer to the above planning application. The existing access is adequate in terms of width and visibility for this use and have no objections to the proposal in respect of highway matters.

Yours faithfully

Louise Rowlands
Development Planner



Maidstone Borough Council
Maidstone Planning Department c/o Rob Jarman
King Street
Maidstone
Kent
ME15 6JQ

Kent Highway Services
Ashford Highway Depot
Henwood Industrial Estate
Javelin Way
Ashford, Kent
TN24 8AD

E-mail: louise.rowlands@kent.gov.uk
Direct Line: 08458 247800
Fax:
Ask For: Louise Rowlands
Your Ref: PH
Our Ref: LR
Date: 23 May 2012

Dear Sir / Madam

Application Ref: **MA/11/1948**

Parish: **Marden**

Applicant:

Location: **MONKS LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE, KENT, TN12 9BU**

Proposal: **Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping.**

I refer to the above planning application which proposes the retention of 2 lakes and the creation of 3 additional lakes. The proposal involves works to reprofile the existing car park from which 15600m² of material will be transferred to Lake 1. An additional 51000m² of material will need to be imported for the project and it is intended that 20 tonne lorries will be used; each carrying 10m² loads. The applicant has agreed to conditions to restrict the times and numbers of HGV movements and to agree a phasing and implementation plan. HGV's would be limited to 30 per day between Monday and Friday and 15 on Saturdays. The applicant estimates that the importation of material will be completed in a minimum of 45 weeks.

Access is to be made from an existing access onto the A229 Staplehurst Road a principal route. There have been no reported injury crashes at this access within the latest 3 year period. Staplehurst Road is subject to the national speed limit and the measured 85th percentile speed is 52mph. The visibility splay from the site access is considered to be adequate for the speed of traffic.

Bearing in mind the above information I am of the view that this application will not be detrimental to highway safety or capacity and I do not wish to raise objection to this application on highway grounds.

Yours faithfully

Louise Rowlands
Development Planner

Your ref: 11/1948
Our ref: SE/MD/2011/26692/N

13 December 2011

Peter Hockney
Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Dear Sir

PART RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF TWO LAKES KNOWN AS BRIDGES AND PUMA AND WORKS TO CREATE 3 ADDITIONAL LAKES ALL FOR RECREATIONAL FISHING, ERECTION OF CLUBHOUSE BUILDING AND ASSOCIATED WORKS AND LANDSCAPING - MONKS LAKES, STAPLEHURST ROAD, MAIDSTONE, TN12 9BU

Thank you for consulting Sport England on the above planning application. As the proposal does not affect an existing playing field, the consultation is not statutory under the terms of the Town and Country Planning (Development Management Procedure) Order 2010 (SI No. 2184 (2010)).

The proposal involves the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping at Monks Lakes, Staplehurst Road in Maidstone.

Planning Policy Objective 7 of Sport England's Spatial Planning for Sport and Active Recreation: Development Control Guidance Note (2009) Appendix 2, www.sportengland.org/facilities_planning/developing_policies_for_sport.aspx supports the development of new facilities that will secure opportunities to take part in sport. As the proposal would secure new opportunities for participation in sport, the proposal is considered to meet this objective, Sport England would therefore support the principle of this planning application.

I hope that these comments can be given full consideration when a decision is made. I would be grateful if you could advise me of the decision on the application, when available, by e-mailing or sending me the decision notice.

Yours sincerely

Dale Greetham

Dale Greetham
Planner

Direct Line: 0207 273 1642

E-Mail: dale.greetham@sportengland.org

Annex 2

Bell Cornwell LLP
Oakview House, Station Road,
Hook, Hampshire RG27 9TP
T : 01256 766673 F : 01256 768490

Also at
Sowton Business Centre, Capital Court,
Bittern Road, Exeter, Devon EX2 7FW
T : 01392 357515 F : 01392 268167

St Mary's Court, The Broadway,
Amersham, Buckinghamshire HP7 0UT
T : 01494 618444 F : 01494 582020

bcp@bell-cornwell.co.uk
www.bell-cornwell.co.uk

Please reply to: Hook

Mr P Hockney
Principal Planning Officer
Development Management
Maidstone House,
King Street
Maidstone,
Kent
ME15 6JQ

16 December 2011

BY EMAIL ONLY

Our ref: RL/5506

Dear Mr Hockney

Planning application: 11/1948
Monks Lakes, Staplehurst Road, Marden, TN12 9BU

We write in response to the planning application above on behalf of Mr. David Padden of Hertsfield Barn and comment on the proposed scheme and details concentrating primarily on the impacts on the occupiers of Hertsfield Barn as follows:

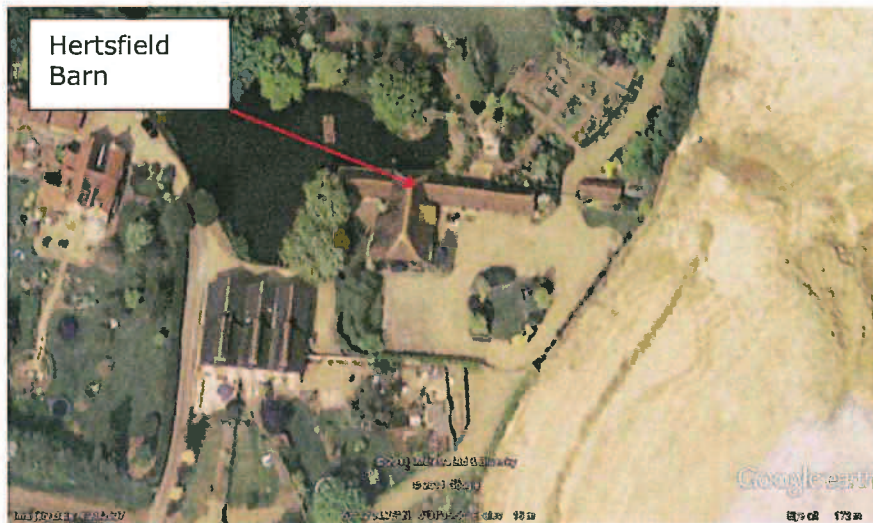
The Application Details

1. The lakes are actually reservoirs due the size and quantity of water to be held, the description of the development does not reflect the true nature of the development including the quantity of material that has been deposited on the land which it is proposed to retain or the further quantity proposed to be imported.
2. The section plan and general arrangement plans [PDA – MOM-107, PDA-MON-103] have a 'do not scale' disclaimer, as such presumably the accuracy of these plans cannot be relied upon and we are therefore surprised the application was validated.
3. It is noted that despite being an immediate neighbour to the site our clients residential property Hertsfield Barn is not identified by name on any of the plans, or for instance in Appendix C of the Environmental Statement (ES) which refers at 1.1 in the executive summary and at 6.4 of the main assessment to the shared boundary on the west with Hertsfield Farm, Old Hertsfield and Hertsfield Cottage 1 – 6.
4. The Landscape Assessment report at Appendix D does not include an assessment of visual amenity from Hertsfield Barn in Section 3.9 of the report. This property seems to have been completely overlooked.

- The photos taken from the application site to accompany this report (extract below) includes one which looks out onto Hertsfield Barn but only identifies Hertsfield Farm and Old Hertsfield to the south and east of our client's property. It is not therefore clear that the consultants undertaking the assessment were aware of the use of Hertsfield Barn as a residence in their assessment at all.



- If the photographer had moved further north on the existing bank it would have been possible to take a photo of the front of Hertsfield Barn. The ornamental planting visible in this photo is within the garden of our client's property as shown below.



- It is noted that notwithstanding the answer at Section 22 of the application form regarding annual waste throughput only, the non-technical summary of the Environmental Statement (ES) states at paragraph 13 that the proposed scheme it is stated requires the importation of a further 51,000 cubic metres of waste material in addition to the retention of some 400,000 cubic metres of existing unauthorised spoil and waste material that has already been deposited on the site.
- The Environment Agency previously advised the quantity of material imported to the site was as follows:

There is volume difference of 645,858m³. Of the area's shown to increase in volume there is a total gain of 734,037m³. Of the area's shown to decrease in volume there is a total loss of 88,179m³

9. Whilst it is understood that there must be some allowance for discrepancies when using LIDAR data for assessment of quantities, it is not clear how the applicant and his agent have reached their figure of 400,000 cubic metres, which is 254,858 cubic metres less than the LIDAR figure. The ES confirms that the current consultants have no knowledge of the land prior to the significant deposit of land. It is understood neither Mott Macdonald nor Scott Wilson, on whose reports some reliance is placed, had prior knowledge either.
10. PPS10 Companion Guide Chapter 8 advises that the Courts have held that where a substantial part of the application relates to a county matter, then the whole application should be dealt with as such (see R v Berkshire County Council, ex part Wokingham District Council 1996 EWCA Civ 513).
11. Whilst the stated intention may eventually be the construction of lakes (or more accurately reservoirs), clearly this has resulted in a large scale waste deposit operation. As such we consider that this is primarily a part retrospective and part proposed waste matter that should be dealt with at the County level.
12. An extract from Development Control and Practice regarding a golf course development in support of this assessment is copied below;

Three enforcement notices alleged a material change in the use of land for the deposit of waste materials at a golf course. A council's assertion that the scale of waste disposal was so great as to create a new planning unit was rejected. Under grounds (b) and (c) an appellant argued that there had been no change of use since the material deposited was not waste and the work was necessary to secure the completion of the golf course. An inspector considered whether the materials were discarded i.e. so that they were no longer part of the normal commercial cycle or chain of utility. The appellant had been paid to receive the waste and the permission for the golf course did not authorise tipping. Under (b) the cases Northavon DC v S.O.S. 3/7/1980 and West Bowers Farm Products v Essex CC 17/6/1985 were discussed, and on balance it was concluded that whilst what had been intended was the construction of golf holes, there had also been a use for the deposit of waste materials. Both grounds were rejected and the enforcement notices upheld (Oxfordshire CC 7/4/99)

13. The requirements for a waste related application includes an assessment which addresses proposed waste types and sources. This does not appear to have been provided with the application material. Other requirements for such applications include:
 - details of the type of wastes proposed to be deposited
 - the expected duration of the operation;
 - the rate at which landfill will take place (an indication of loads per week);
 - If the proposal is likely to generate significant amounts of traffic and/or heavy vehicles and/or would involve use of roads of poor construction, width or alignment, you are strongly advised to contact the Highway Authority.

The Environmental Statement

14. It is understood that no scoping opinion was sought prior to the preparation of the ES.
15. The Environmental Statement (ES) as submitted with the current application is fundamentally flawed as it uses the date of 2010 with significant unlawful development in place as its base point rather than the position in 2003, preceding the commencement of the unauthorised development a position which is the actual lawful base point. The Landscape Assessment and other reports within the ES replicate this error. In view of this it is not clear why the application has been validated.
16. In a meeting with members of the Hertsfield Residents Association on the 21 March 2011 senior officers of MBC (Rob Jarman and Alison Broom) confirmed that the development as presented in the 2010 Scott Wilson report was not acceptable and that any application and accompanying ES should compare the proposed development to the 2003 position.
17. Whilst the ES states no comment is made on the legal position with regard to the 2003 consent, it does seem to make an assumption that the 2003 development was or could still be implemented. If this is considered to be material to the assessment of the current proposal it would be sensible to resolve this once and for all through the planning enforcement appeal process (a process that has been frustrated by related matters of lawfulness and questions of implementation for over 2 years) before determining this application.
18. In terms of lawfulness it remains our assessment that the 2003 consent was never implemented as pre-commencement conditions, including condition 12 which required that no development shall take place until details of earthworks had been submitted to and approved by the local planning authority, were never discharged.
19. There are no issues of estoppel in such matters and regardless of any communications with the previous landowner that may have caused confusion in the appeals for the S.73 matters; MBC was entitled in law to issue the enforcement notice.
20. We understand the Maidstone Borough Council (MBC) sought Counsels opinion prior to the issue of the enforcement notice, and the advice concurred with our assessment .
21. We are not aware of any change in this position. The recent Order of the Court following a Judicial Review of the decision of the Inspectorate to decline to determine various appeals simply requires those appeals to be reinstated for assessment by a planning inspector.
22. In further support of our assessment of the lawful fallback position, we draw attention to the recent case of Greyfort Properties Ltd v SoS CLG [July 2011] in which the Court of Appeal reviewed all the previous cases on pre-commencement conditions. In 1974 full planning permission was given for the erection of 19 flats subject to conditions:

“(3) Before any work is commenced on the flats hereby permitted the access including visibility splays shall be formed and laid out to the satisfaction of the LPA

(4) Before any work is commenced on the site the ground floor levels of the building hereby permitted shall be agreed with the LPA in writing"

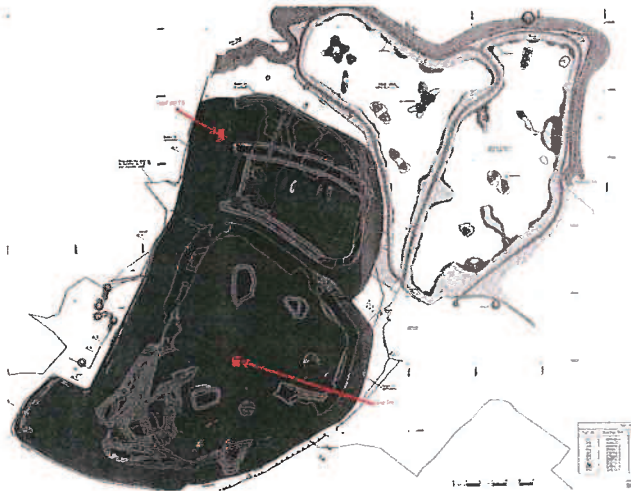
The Inspector and the High Court took the view that the refusal of a certificate of lawfulness was correct. The works that had been carried out before the planning permission lapsed were not lawfully carried out as they were in breach of condition 4. We see no difference in this case on the basis of the evidence available.

23. In addition the ES is deficient in that it provides no information as to the type of material tipped on site. The huge quantities of waste that tipped on site was unregulated, as such it is not known with any certainty what was tipped there. Local residents are concerned about odours from the site which suggests that some putrescible matter was dumped. In addition the water runoff from the site has an unpleasant odour and appears polluted.

24. It was understood from a previous report prepared by Scott Wilson which was submitted to the Council in 2010 at pre-application stage, a report that was shared with residents in August 2010, that only 10 bore holes or trial pits were made, this on a site that spans many hectares. It is noted from this report that the following material was found:

No 5: Asbestos cement tile

No 10: Asbestos cement tile



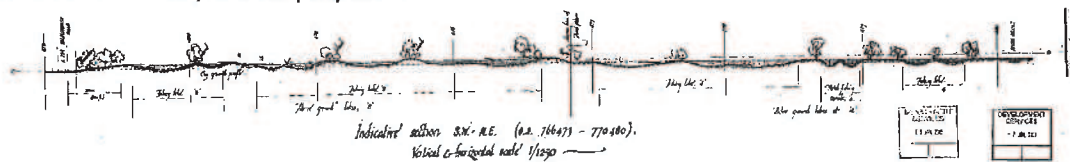
25. The approximate location of these test pits is shown above. It is curious that the ES is silent on the quality of the material tipped on the site as this has the potential for significant detrimental environmental and health impacts.

Impacts on Residents of Hertsfield Barn

26. The whole development is pushed out further to the edge of the western boundary and closer to our client's property than the scheme that was approved in 2003. On the approved plan there was a clear gap from the boundary with our client's property before the start of the 1:10 rise of the bank on the west side to form the 'above ground lake' number 8 as annotated on the plan (note not 1:8 as suggested in the ES and as proposed for this scheme).

27. The part of the 2003 indicative cross section 674/VIII-1A which is not reproduced in the current application in PDA-MON-107 shows that the ~~150~~ construction of the above ground lakes was to

include some excavation of the lake floor, rather than increasing the height of the lake floors by 3 metres or more, as now proposed.



28. In 2003 MBC considered insufficient detail was provided in this plan and therefore imposed a condition that required additional details to be submitted for approval prior to commencement of development. As such the superimposed comparison with this in Plan PDA-MON-107, cannot be relied on for accuracy.
29. If, as the previous and current landowners state, it was impossible to implement the 2003 consent due to errors in the scheme, it was their responsibility to submit a revised scheme for consideration rather than commencing or continuing works on a scheme that was vastly different from that approved, and without the discharge of pre-commencement conditions. The unauthorised works that have been undertaken were carried out at their own financial risk, and the cost of remedying this should not colour decisions that have significant impacts on the occupiers of neighbouring properties.
30. As the 2003 consent has now expired, it is not a fall-back position, and carries little weight in the determination of any new scheme. As the scheme was so fundamentally flawed that it could not be implemented as approved, it carries even less weight than this, such that it is not a material consideration.
31. We therefore consider the proposal should be assessed afresh with no fallback position and in the absence of the unauthorised development the subject of the notice currently at appeal.
32. The C-C cross section plan in the current application if read at face value gives a misleading view of the proximity of the highest part of the bank adjacent to our clients property. The cross section shows a distance of 130 metres from the section through the [unnamed] Hertsfield Barn to the top of the bank as proposed, when the distance on the general site arrangements plan [with the rider do not scale from] is scaled to be 75 metres.
33. The view from the east side front of the property looking towards the site is shown below. Unfortunately we have been unable to locate a pre development photo of the same view; however, the second photo is a view from our client's field looking away from the application site, to illustrate the character of the outlook he previously enjoyed.



34. The sight line of visual receptors as indicated on cross section C-C is not truly reflective of the view when looking out the front windows or standing in the grounds of Hertfield Barn as shown in the photo above. Under the current proposals from these positions receptors looking east will be faced with a large bank with dense planting on top rather than a view of the skyline in the distance as suggested.
35. The B-B section is more representative, although Hertfield Barn is not shown as the line does not pass through it. The actual distance from the highest part of the bank to the boundary of our client's property is less than 50 metres.
36. The proposed crest of the bank to Lake 2 is at least 5.7 m higher than the land levels at Hertfield Barn. It is now proposed that dense woodland planting should be placed on top of this to reduce the significant problem of overlooking from visitors to the lakes and loss of privacy.
37. In looking at the list of plants in the landscaping scheme proposed for this area (W2) it is noted that a field maple can grow up to 15m in height, and quercus robur grows to a height of between 25 to 30 m. The combination of the bank rising to 5.7 metres above ground level and the density and height of planting may cause overshadowing and loss of morning sunlight in the grounds of Hertfield Barn, particularly in the winter when the sun is low.
38. Contrary to the opinion in the ES at Appendix C para 10.28 it is considered that in the context of the lawful position, i.e. no development as at the 2003 base point, the combination of the bank and planting will harm the character and appearance of the area and be visually intrusive and overbearing, which would result in a loss of amenity to the occupiers of Hertfield Barn in conflicts with the provisions of policy ENV 28 of the Maidstone Borough Local Plan.
39. Without the dense planting on the west bank of lake 2 there would be significant and unacceptable degree of overlooking to Hertfield Barn causing loss of privacy and amenity. However, the suggested remedy for this, dense planting on the bank, will detract from the open outlook previously enjoyed and will have an overbearing / enclosing impact in this rural area. As such the mitigation that seeks to make the proposal acceptable in one respect has unintended consequences that would also result in unacceptable impacts on our clients amenity.
40. It should also be noted that our client owns the field to the north of his residence, and views from this land are also affected as can be seen below. The continuous line of the bank to Lakes

along the boundary of his property as proposed will continue to appear as an artificial land feature in the landscape.



41. It is noted the Flood Risk report at Appendix A refers to planting of hedges on the crest on the west bank and cautions at para 5.4 that

'(It is important that the planting is not so dense as to inhibit growth of grass and regular inspection of the embankments).'

42. This is necessary to ensure that the banks of the reservoirs are not compromised and appears to be inconsistent with the dense woodland planting proposed to prevent overlooking.
43. The slight/positive visual impact assessment made in Appendix D of the ES for neighbouring properties (excluding Hertsfield Barn) at 3.9 a (ii) and (iii) is of course based on a change from the current unauthorised development position as a base line, and not the 2003 pre-development position which is the correct base line. As such this assessment of impacts cannot be relied upon.
44. It is noted that the ES suggests a further 51,000 cubic metres of material is required for the proposed scheme. Based on 15 cubic metres a tipper lorry load by volume this equates to some 3,400 inwards lorry movements and a further significant amount of gate income based on the current median fee of £20 a tonne within the range is £12 - £55 a tonne (excluding landfill tax). The current H M Revenue and Customs landfill tax guidance uses a multiplier of 1.5 on each cubic metre of inert waste to calculate the tonnage (in the absence of a weighbridge). This calculation results in 765,000 tonnes of material, applying the median rate of £20 a tonne this would result in potential gate fees of £1,530,000.
45. The pre-application scheme submitted by Scott Wilson to the Council in 2010 required no additional imported material, using existing material to cut and fill. This scheme was not acceptable to our client, the HRA or MBC. It is inconceivable that a scheme which requires even more material would now be necessary or acceptable.
46. On the evidence it could be concluded that the scheme currently under consideration has been devised as another waste disposal exercise to avoid the cost of remedying the harm to local

resident's amenity by the removal of the unauthorised material on site, and as a way to make more money.

Flood Risk

47. A number of assumptions are made in the Flood Risk assessment at Appendix A of the ES concerning the previous ground condition and its capacity for absorbing ground water.
48. In addition it is suggested that the ditch along the western boundary, i.e. the one next to our client's property, is more than adequate to deal with the run off from the regarded slopes that are to be created in the construction of the lakes.
49. As a matter of fact the proposed development is to retain the lakes with floors which will be sealed with clay at a level of around 3 metres above the former natural ground level. Rather than absorbing rain water, the lakes will now feed rain fall through pipes from one through to the next. There is a risk of the pipes becoming obstructed which may have consequences for neighbouring properties. There is no planning control to ensure these pipes are properly maintained.
50. Reference is made to 'enhancing the ditch' but our client notes that the discharge into the existing ditch has to be supplemented by a motorised pump that runs regularly. His observation is that there has been a significant increase of waterlogging of his garden; the pond water height has risen, as has the level of water in the ditch, since the unauthorised development was undertaken. The gardener who has attended the property since 1991 has advised our client that there is standing ground water in places that were never a problem prior to the unauthorised development.
51. Whilst the 'enhancement' of the ditch by widening the bottom width to 1 metre may improve the current situation, there is no certainty that it will return the situation to the pre-unauthorised development position or that the ditch will be adequately maintained in perpetuity. It is noted there is no condition to this effect suggested in the condition schedule submitted with the application and the efficacy of any such condition is dubious.

The Alternatives

52. The ES assesses the impacts of compliance with the notice, and comments that it would take 40,000 lorry movements to remove 400,000 cubic metres of material (based on unspecified calculations) to achieve compliance within a period of 8 months, for a development that took years to undertake.
53. Comment is made in the ES about the cost of compliance with the notice, which it is stated could be into 'millions', although no actual detailed assessment of cost is provided, but presumably this was assessed using gate fee figures for landfill waste disposal.
54. No information is provided regarding the receipt of gate fees for the unauthorised waste material that was imported to the site, which would have been significant. According to the

Waste and Resources Action Programme (WRAP) the 2008 median gate fee for landfill (excluding landfill tax) was £20 per tonne. The highest in the range of gate fee was £40 per tonne, the lowest £11.

55. Although material was imported sporadically in the period between 2004 and 2007, activity significantly increased in 2008 and in an 8 week period starting at the time when the current owner purchased the site and until MBC issued the Temporary Stop Notice. In excess of 200 lorries a day deposited spoil on site. On the basis of 40 days, and a conservative estimate of 200 lorries with 15 cubic metres a load and applying the land fill tax multiplier of 1.5 this equates to 45,000 tonnes which has a gate fee of £900,000. This spoil may have originated from the Tesco development scheme in Hastings.
56. If one accepted the ES figure of 400,000 cubic metres of waste, using the land fill tax multiplier of 1.5 this equates to 600,000 tonnes of waste, which even at £11 a tonne could have produced gate fees of £6,600,000 and significant profits from the unauthorised importation of material.
57. It should also be noted that in addition to gate fees for waste the current and previous landowner have had the benefit of income from the two unauthorised below ground level lakes (Puma and Bridges) located in the flood plain for many years. Prices are currently £10 a rod for a day ticket and the website states this is rated as the 4th best fishery in Britain. Our client has observed that the site is well attended on a regular basis.
58. The applicant must have been aware of the Council's concerns about the development at the time he purchased the property and yet he continued with the unauthorised works, indeed he increased the intensity of importation of waste until the Council took formal action. It is disingenuous that he now complains that the cost of removing the unauthorised material is too great. Indeed in this current scheme it is proposed to import even more material.
59. If the compliance period is too short for the landowner to undertake the removal of spoil in an orderly manner, as any further action to secure compliance with the notice is at the discretion of the local planning authority it is open to the landowner to negotiate with MBC to agree a method statement and alternative timetable for the remedial works. Our client would ask that if this is the case that residents are given the opportunity to comment on any such scheme.
60. In the ES no alternative scheme of works that that would lower the base of the 'above ground' lakes down to or lower than the original ground level has been considered, or indeed a scheme for smaller lakes rather than reservoirs. It may be that a scheme of this nature would provide an acceptable compromise, but it seems the landowner does not wish to compromise, and is simply presenting a fait accompli to the Council and residents alike.

Ecology

61. No detailed comment is made as the base line used in the ES is 2010. Any wildlife habitats or flora or fauna of merit in the part of the site adjacent to our client's property where the significant waste tipping has taken place was lost at the time of the unauthorised development. It is therefore not surprising that there is nothing left in this area.

Additional Relevant Policies:

62. The development includes the retention and importation of significant quantities of waste material. Proposals for waste related development must be assessed against relevant planning and development plan policies. This includes the advice in Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) and the adopted Kent Waste Local Plan (March 1998). The ES is silent on these policy documents.

Conclusion

Some of the plans as submitted are not acceptable as these have disclaimers regarding scaling, so cannot be relied upon for accuracy.

It is considered that Maidstone Borough Council is not the appropriate authority for this primarily waste related application. As such the application should be referred to Kent County Council. As no assessment of waste polices has been made inadequate information has been provided.

The ES is fundamentally flawed as it starts from a base point of 2010 in the context of the existing unauthorised development. As confirmed by the Chief Executive and senior Council officers in a meeting with local residents the correct assessment for any application for this site should be against the position in 2003 before the unauthorised works.

There is no fall-back position to any previous consent. The 2003 permission was in itself flawed and apparently it was not possible to implement the approved scheme. As such that consent as a result of incorrect information and the inadequate assessments made by MBC are not material considerations and carry no weight in support of the proposed scheme the subject of this application.

The proposed development would result in the retention of unregulated unauthorised waste material that has been used in land raising. The proposed lake (reservoir) base levels are 3 m above original land levels and are to be contained on the western side by a steep bank (1:8) that slopes upwards from the boundary to a crest height that exceeds 5 metres in height. This bank is then to be topped with dense woodland planting. The resultant development would be overbearing and have a detrimental impact on visual amenities of the occupiers of this Hertsfield Barn contrary to policy EN28 of the development plan.

The Flood Risk report is noted, however, the conclusions are inconsistent with our client's observations of ground conditions and the adequacy of the ditch, both before and after the unauthorised development. Any improvement to the ditch would have to be regularly maintained to ensure its continued efficacy; there are doubts that this would be undertaken in perpetuity. In addition there appears to be inconsistency regarding the proposed planting and the need to regularly inspect and maintain the bank as the proposed lakes are of a size that falls within the controls relating to reservoirs.

Our client objects to the application proposal which from the perspective of impacts on his property and amenity varies little from the scheme proposed in the 2010 Scott Wilson report, a scheme that was unacceptable to local residents and MBC.

It seems that despite extensive delays in the planning appeal and Court processes, delays as a result of the landowner's requests for time to negotiate with MBC, there is no commitment to devising an acceptable compromise solution to resolve this long outstanding matter. The landowner simply seeks to minimise his cost by retaining the unauthorised material that has been imported, and indeed to make further profit by importing additional waste.

In the absence of any suitable compromise scheme being put forward for consideration over 3 years after the issue of the enforcement notice, it is our contention that every effort should now be made by MBC to ensure that all the unauthorised material is removed from the site in accordance with the terms of the enforcement notice.

Whilst there is a cost to compliance, the current and previous landowners undertook the unauthorised development at their own risk and have profited from the unauthorised development by receipt of gate fees for the waste and income from the lakes. In any event cost of compliance should not outweigh the necessity to remedy the harm caused to local residents, including our client, as a result of the unauthorised development.

Such harm was noted in the reasons for the issue of the notice, as was the fact that there was no technical reason as to why the lakes needed to be constructed on a plateau.

The unlawful waste disposal by land raising on the Land causes planning harm because there are no planning controls on the height and physical extent of the land raising, or on the types of materials that can acceptably be used in carrying out the land raising. The unlawful waste disposal and land raising also has a detrimental impact on the visual amenity of the countryside and rural area of which the Land forms part. The unlawful waste disposal and land raising adjacent to the neighbouring residential properties has an overbearing visual impact and is harmful to the amenity of the residents. The unlawful waste disposal and land raising adds to the general environmental disturbance of earthworks, vehicle movements on the Land, plant and machinery operating, and the noise and dust that these generate.

There has been no technical justification advanced why lakes have to be built on a six metre high plateau compared with the below ground lakes already constructed on the Land. This land raising has involved the deposit on the Land of construction and demolition arisings and therefore waste materials. In the absence of any technical justification for the need for these waste materials to be deposited on the Land, the primary purpose of this aspect of the development appears to be a change of use for waste disposal rather than the use of waste materials as part of an essential engineering operation.

We therefore trust that MBC will:

- Refuse this application.
- Decline any further request for delay of the enforcement appeal Public Inquiry.
- Fully defend its reasons for the issue of the enforcement notice in the planning enforcement appeal process.

On the basis of the history and background to this matter, including the enforcement notice and reason for issue and the assurances that have been given to local residents in meetings; it would be perverse to do otherwise. If MBC were to grant consent we are instructed to seek Counsels advice on a Judicial Review of any such decision.

We would be grateful for notification of any amendments to the application and for confirmation of when this matter is to be reported to the Committee.

We also request an update as to the appeal timetable and for copies of any documentation.

Yours sincerely

REBECCA LORD MSc MRTPI
Principal Planner

Direct Dial: 01256 382036
E-mail: Rlord@bell-cornwell.co.uk

**OLD HERTSFIELD FARMHOUSE
STAPLEHURST ROAD
MARDEN
KENT
TN12 9BW**

21 January 2012

Maidstone Borough Council
Planning Department
Maidstone House
King Street
Maidstone
ME15 6JQ

For the attention of Peter Hockney Esq.

Dear Sirs

Planning Application 11/1948 Monks Lakes

This letter is from the Hertsfield Residents' Association (HRA), which comprises the owners of all 12 houses along Hertsfield Lane, adjacent to the Riverfield site which is the subject of the above application. The Riverfield development has been constructed in breach of planning permission and in 2008 after years of campaigning by the residents' association (whose members have been blighted by the illegal development), Maidstone Borough Council eventually commenced enforcement action against the entire development. The enforcement action is currently the subject of an appeal by the site owners and a revised date for the associated public inquiry is awaited. A public inquiry is the determined route for the appeal process because of the very significant issues with the site which has in effect operated as a waste facility for 7 years. The Hertsfield Residents Association is a Rule 6 party to that appeal.

The HRA does not believe that the application is compliant with the requirements of the Town & Country Planning Act and further objects in the strongest possible terms to the application which:

- (i) fails to rectify any of the significant breaches of planning control at the site;
- (ii) fails to rectify any of the significant issues for local residents caused by that development;
- (iii) makes the situation even worse through the further importation of 51,000m³ of spoil;

- (iv) creates a wholly unacceptable additional flood risk for local residents through the construction of reservoirs above ground level adjacent to residential properties; and
- (v) envisages the construction of a large clubhouse facility, involving both retail premises and a restaurant, entirely out of keeping with the rural environment and to the detriment of local residents through creating additional traffic movements, noise and disturbance.

The application and the Environmental Assessments do not comply with the requirements for a new planning application. Previous development on the site was unauthorised and is being enforced against. There is therefore a legal requirement for this application to be an entirely new one for the development (since 2003 and now proposed) as a whole, yet it is not. The current application instead assumes that the existing construction is legitimate and seeks consent for additional works.

The application itself is voluminous, accompanied by significant pages of consultants' reports. However volume is no substitute for content. The council has previously notified the applicant of the need for an Environmental Impact Assessment (EIA). The council has also on numerous occasions confirmed both to HRA and (we assume, given that the application notes that they have consulted Peter Hockney on this issue in October 2010) the applicants that the EIA needs to take as its base position the pre 2003 landscape and to assess the impact of the development on that position, as the current site development is unauthorised. All of the significant volume of EIA material included with the application takes 2010 (ie post unauthorised development) as the base or comparator position, which therefore renders this work largely irrelevant for the purposes of determining the application. It is clear that any EIA assessment of this application against the 2003 pre development position would be extremely negative.

The applicant has additionally been notified by the Planning Inspectorate in relation to the appeal to the enforcement notice dated September 2008 that an EIA would be required regarding the development since 2003. It cannot be the case that the current application can proceed therefore without a full EIA regarding development since 2003.

The Environmental Statement included with the application also contains a purported review of the impact of the proposed development on residential amenity. At no stage were any of the residents contacted to ascertain their views and the members of HRA reject completely the conclusions of the report. For local residents whilst disruption would be significant in the short term through the developer complying with the enforcement notice issued in September 2008, it is a considerably preferred position than more limited short term activity required for further construction on this blighted development. This is because the development itself would blight local residencies and its effects would be long term. The report therefore completely lacks validity and should be set aside.

The current application appears to us to be similar in all material respects with a “pre application proposal” submitted by the developers to the council in 2010, upon which HRA has already commented. Given how clearly unacceptable those pre application proposals were, it is odd that the current actual application is so similar.

This whole development has been so problematic to the council and local residents for so many years that in the unlikely event that a recommendation to approve is made by the planning officers, the decision must go to the full planning committee. However on the assumption that the application will be rejected, the council should take all necessary steps to require PINS to continue with the enforcement appeal process within the shortest possible timescale.

Objections

1. The Proposal does not address any of the significant breaches of planning permission regarding MA 03/0860 which are the subject of enforcement action commenced in September 2008. Those breaches of most specific concern to the residents are:
 - a. There is no proposed removal of any of the significant volumes of materials brought on site as unlawful waste disposal operations. The 2008 enforcement notice (attached as Appendix A) states: the importation of materials for land raising is not specifically provided for in the description of development granted planning permission MA/03/0836. No justification has been provided why the importation of materials for land raising, either at all or in the quantities that have in fact occurred, are necessary for the implementation of the development granted planning permission MA/03/0836.
 - b. There is no material alteration to the very high and steep banks (or “bunds”) on the Western side of the site, nearest the residents. The 2008 enforcement notice correctly describes these as having “an overbearing visual impact and [is] harmful to the amenity of the residents”;
 - c. There is no material proposal to reduce the earth dumped in the flood plain when any land arising in the flood plain was a precondition of the 2003 planning approval;
 - d. It is still proposed that the lakes nearest the residents are constructed on a raised platform (which has already been constructed on an unauthorised basis), when there is no technical justification for this and which was never envisaged as part of the 2003 planning application. This represents both significant visual harm and loss of privacy to the residents, but also (see Paragraph 4 later) an unacceptable additional flood and property damage risk. The 2008 enforcement notice states:

There has been no technical justification advanced why lakes have to be built on a six metre high plateau compared with the below ground lakes already constructed on the Land. This land raising has involved the deposit on the Land of construction and demolition arisings and therefore waste materials. In the absence of any technical justification for the need for these waste materials to be deposited on the Land, the primary purpose of this aspect of the development appears to be a change of use for waste disposal rather than the use of waste materials as part of an essential engineering operation.

2. Notwithstanding the already huge quantities of spoil brought on site on an unauthorised basis, the application envisages the importation of a further 51,000m³ of spoil, necessitating in excess of 5,000 lorry movements. This will create significant noise, disturbance and loss of amenity to local residents and will by definition make worse an already unauthorised waste operation.
3. There have been a number of site surveys carried out by consulting engineers which have indicated the presence of contamination – including asbestos, metals and asphalt – within the spoil dumped on site. This poses potential health risks, but importantly is likely in our view to adversely impact the structural integrity of any banks/bunds constructed to contain above ground reservoirs. The entire exercise to import waste has resulted in serious risks for residents and users of the site. In addition, under a waste exemption license, the operator is required by law to test waste deposited on site and to keep adequate records. The LPA should require access to these records.
4. The 3 lakes proposed to be created on raised platforms at the southern end of the site, which are directly adjacent to residents along Hertsfield Lane are so large that they fall under the Reservoirs Act. The nature of their construction, being raised above ground level, makes them at greater risk of catastrophic failure than similarly sized lakes constructed below ground level as they are by definition contained within man made bunds. The risk to local residents and their properties (some of which are Listed buildings) is entirely unacceptable. Additionally both developer and any planning authority which approved such a reckless development would be at risk of significant legal liability. The application itself contains a flood risk run off calculation which states:

A breach of either of lakes 1 or 2 on the west side would seriously affect properties in Old Hertsfield. Velocities of flow at the foot of the embankment would approach 10 *m/s* although they would slow rapidly to much less while at the same time becoming deeper. Around 50 m from the toe a depth of about 0.5 m could be expected with a velocity of around 1 *m/s*. Thereafter flow would stabilise at about 0.4 m depth with a velocity of 0.9 *m/s*. However there would be local effects around obstacles such as buildings, walls and trees etc.

The above are the near field (ie the immediate vicinity of Old Hertsfield) effects and considered to be conservative figures. Middle field effects (ie between Old Hertsfield and the river where there is no property) will be increasingly less serious due to valley storage effects. It seems likely that the Large buildings of the Stile Bridge Nursery would escape the main flow.

5. In respect of the clubhouse, the current application is not dissimilar to MA 10/0762 in its size and scale. The proposed clubhouse represents a large and

visually intrusive structure in an otherwise rural landscape. HRA objects to the proposed clubhouse on the following grounds:

- a. The justification for a clubhouse to be constructed in a rural location can only be to provide required support for legally authorised activities. We do not believe that fishing does provide a justification for such a large development (at 200m² before taking account of office, toilet, storage and reception space) – such facilities are rarely found at other angling sites. Instead we believe that there is a serious risk that the clubhouse will attract (and is designed to attract) passing trade from non anglers choosing to eat in the restaurant. It is therefore an application for a new leisure facility in a rural location with a use not required for anglers.
- b. The applicants refer (for instance para 5.32 of the Design and Access Statement) to planning permission having been granted under MA 03/0836 for fishing lakes with a clubhouse. Notwithstanding that the grant of planning permission is no longer relevant as no lawful development commenced within the 5 year timescale, that planning permission was for a very much smaller (1/3rd of the size) building than proposed here. The planning committee report on 03/0836 summarised the building thus: “The proposals include the erection of a single storey "lodge" building, some 13.5m x 5.3m. This would be used for reception, administration, and storage, and would include toilets (including disabled facilities). The building would be of simple timber construction with a clay tile roof.”

That 2003 application therefore envisaged a building very much smaller than this, and which included neither restaurant nor retail facilities. The previous planning permission therefore provides no support for the current application.

- c. The previous planning application by the same developer regarding a clubhouse (MA 10/0762) stated that overall numbers of anglers on site will never exceed 120. With regard to the need for basic facilities, the rivers, gravel pits, lakes, the sea etc around the country are fished day and night throughout the season without the need for one clubhouse plus restaurant plus shop etc for every 120 anglers! If that was a basic need it would be impossible to protect the countryside. Application MA/03/0836 did not propose a restaurant or washing facilities so clearly these are not “essential facilities”.
- d. The applicants’ design and access statement asserts (paragraph 5.36) that “A shop selling angling products is a necessary part of the business”. However as the LPA will be well aware, because a lot of fishing is done in the countryside away from tackle shops, anglers are generally self sufficient and the very large majority of anglers bring all their equipment with them. The likelihood of breakages rendering an angler incapable of

fishing is extremely rare and similarly is running out of bait. Such unlikely eventualities do not justify a shop in the middle of the countryside. Shops should be in town centres and anglers are spoilt for choice in the vicinity. A simple list from the telephone directory shows many specialist fishing and tackle shops within a short drive, for instance the following:

1. Fishing World Of Kent Ltd
telephone: 01622 892371
27 High Street, Headcorn, Ashford. TN27 9NH
2. Nicks Tackle Shop
telephone: 01622 673899
10 Knightrider Street, Maidstone. ME15 6LP
3. Maidstone Angling Centre
telephone: 01622 677326
15 Perryfield St, Maidstone. ME14 2SY
4. Fishing Equipment Suppliers Trade-In-Tackle
telephone: 01622 814296
Maidstone Rd, Watlington. ME18 5EH
5. Fishing Emporium Ltd
telephone: 01892 837040
4 Clavadel Road, Paddock Wood, Tonbridge. TN12 6EW
6. West Malling Angling
telephone: 01732 875515
56-58 High Street, West Malling. ME19 6LU
7. Specialized Angling Centre
telephone: 01634 243112
3 Holborough Road, Snodland. ME6 5NL
8. Medway Tackle
telephone: 01732 360690
103 Shipbourne Road, Tonbridge. TN10 3EJ
9. Tackle & Gun Shop of Tenterden
telephone: 01580 764851
3 Eastwell High St, Tenterden. TN30 6AH
10. Just Baits
telephone: 01634 817771
70 Luton High Street, Chatham. ME5 7LJ
11. Kent Tackle
telephone: 01580 754422
Hastings Road, Hawkhurst, Cranbrook. TN18 4RT

Application MA/03/0836 did not propose a shop so there is clearly not a "reasonable need" for such retail premises on site. A clubhouse may be commercially desirable for the developer but it is clearly therefore not

“necessary” as claimed. A commercial desire by the developer should not override the protection of the countryside and amenity of residential neighbours.

- e. The proposed development will increase noise, light pollution and disturbance from the site to the detriment of the local residents. In addition, the building would attract additional clientele (restaurant, bar, conferences etc) who have no connection to anglers taking part in a competition, hence this will increase traffic flow into a rural location and cause potential hazard especially at the junction between the site and the main A229 road. The applicants propose a planning condition to restrict the use of the clubhouse to purposes ancillary to the principal use of the site (recreational angling) but this is an unenforceable condition and the applicants have demonstrated a long history in any event of ignoring planning conditions.
- f. The proposed building is completely out of keeping with local architecture and does not meet the criteria for outstanding architecture which under local and regional development plans are a prerequisite for building in a rural area.

Conclusion

It is the very clear view of the HRA that the application should be refused. If, in spite of the evidence to the contrary, the planning officers are minded to recommend approval, it is equally clear that the decision should go to a full planning committee especially given the very long and problematic history of the site.

On the basis that the application is refused, the LPA should act as soon as possible to require the Planning Inspectorate to recommence the enforcement appeal.

Yours faithfully

For and on behalf of Hertsfield Residents' Association



JM Edwards

Chairman

Bell Cornwell LLP
Oakview House, Station Road,
Hook, Hampshire RG27 9TP
T : 01256 766673 F : 01256 768490

Also at
Sowton Business Centre, Capital Court,
Bittern Road, Exeter, Devon EX2 7FW
T : 01392 357515 F : 01392 268167

St Mary's Court, The Broadway,
Amersham, Buckinghamshire HP7 0UT
T : 01494 618444 F : 01494 582020

bcp@bell-cornwell.co.uk
www.bell-cornwell.co.uk

Please reply to: Hook

Our ref: RL/5506

Mr P Hockney
Maidstone Borough Council

Via EMAIL only

25 May 2012

Dear Mr Hockney

Application 11/1984
Site: Monks Lakes, Staplehurst Road, Marden

It is disappointing to note that you have not to date responded to our telephone message on the 15th May 2012 regarding the timing of your intended report to Committee on the above.

We write to advise that following the site meeting on the 4th May 2012 with Barrie Neaves of the Environmental Agency, a meeting you were invited to attend, we now have an explanation concerning the flooding at our client property. Mr. Neaves had discussed the matter with a geologist from the EA who advised that the problems were most likely to be as a result of the unauthorised works on the neighbouring land due to the weight and compaction of unauthorised material. This has in effect reduced the capacity of the gravel aquifer layer, which is in the main contained by clay, so the water seeks the weakest path to escape and this appears to be the pond and immediate area at Hertsfield Barn. This is explained in the attached letter from an independent geologist.

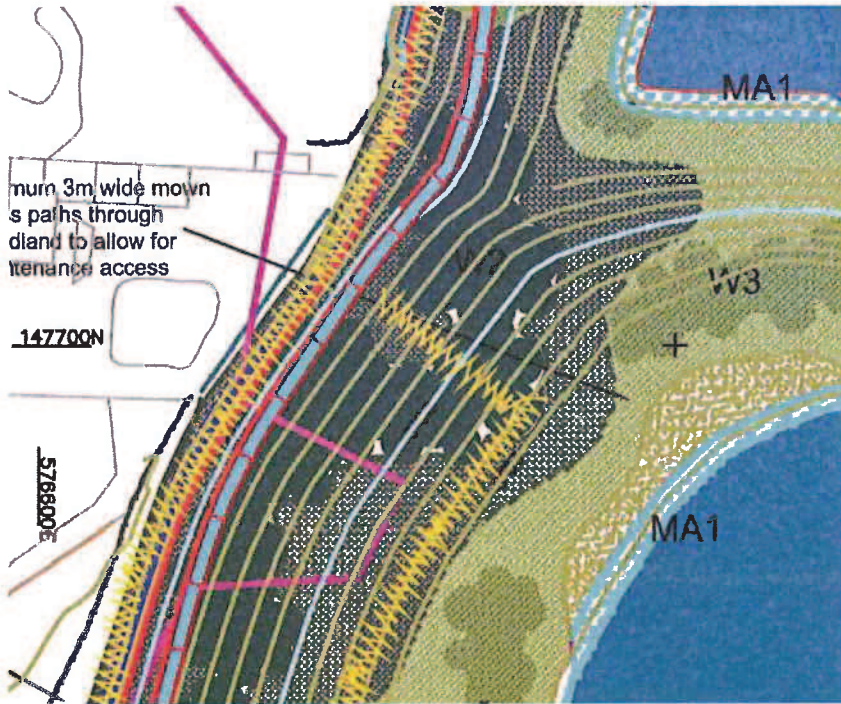
We also understand that the EA will confirm their geologist's advice in writing, although we understand the EA's duty as a statutory consultee is limited to providing advice regarding river flooding.

On the facts it can be reasonably concluded that the unauthorised works have, and if the proposed were approved, will continue to have a direct impact on ground water levels at our client property such that unless the pond is continually pumped to remove the additional water that is being displaced from the aquifer layer it will cause damage to his house which located is immediately adjacent to the pond. This problem is not as a result of river flooding, surface water or ditch drainage.

We note the additional material provided by the applicant in March. We would comment that the reports deals with potential erosion, burst banks and other scenarios, but not the geological impacts of the unauthorised importation of significant quantities of material, which does not appear to have been considered, therefore no mitigation measures for these detrimental off site impacts are proposed.

We note the revised FRA states at 5.4 that the banks of the lakes will be grassed and thinly planted with appropriate trees, and that normally tree

planting on slopes of embankments dams is discouraged. This does not accord with the landscaping proposals which show W2 dense woodland planting on the banks close to our client's property (the dark green area). It seems the reports are not compatible.



W2 Dense Woodland Mix (Boundary Belt)			
Planting to be planted in random species groups of 7-25 at varying centres between 1.5-3.5m centres, (average 2.5m for trees and 1.5m for shrubs) throughout woodland clumps.			
15	605	<i>Sorbus aucuparia</i> (Rowan)	Feathered, 2x, 125-150, B, Branched 3
15	605	<i>Acer campestre</i> (Field Maple)	Feathered, 2x, 125-150, B, Branched 3
15	605	<i>Fagus sylvatica</i> (Beech)	Feathered, 2x, 150-175, B, Branched 3
20	806	<i>Fraxinus excelsior</i> (Ash)	Whip, 2x, 150-175, B, Branched 3
5	202	<i>Betula pendula</i> (Birch)	Feathered, 2x, 125-150, B, Branched 2
10	403	<i>Quercus robur</i> (English Oak)	Feathered, 2x, 125-150, RB, Branched
5	560	<i>Crataegus laevigata</i> (Hawthorn)	Whip, X/1/0, 100-125, B
5	560	<i>Ilex aquifolium</i> (Holly)	40-60, C, 2L, Leader and laterals
5	560	<i>Prunus spinosa</i> (Blackthorn)	1+0 or 1/0, 40-60, B, Leader
5	560	<i>Viburnum opulus</i> (Guelder Rose)	1+1 or 1/1, 40-60, B, Branched 2

At varying centres between 1.5m and 3.5m centres, with average 2.5m centres for trees and 1.5m centres for shrubs

The EA have provided us with a letter dated 9th March 2012 which they sent to the applicant (MBC were copied) and in which a number of concerns are raised. Firstly it is noted that the applicant would need to obtain a bespoke permit from the EA to import additional material and there is no guarantee that the applicant will be able to obtain one. Secondly we note that despite the problems of excessive ground water that has been experienced by our client since the unauthorised works, it is estimated that it will take nearly 7 years to fill the three lakes as proposed. It is noted that there would have been no opportunity for the applicant to extract water from the river Beult last winter. The EA have concerns about how the site will be operated in the future. This it brings into question the deliverability of the proposed development

We note the letter from the applicant's agent to the Council dated 13th February 2012). In response we would comment that the applicant is also responsible for the condition of the land, not just the previous landowner. He was responsible for the importation of significant quantities of unauthorised materials from 167 moment he purchased the site, and continued

until the Council served a Stop Notice. He would of course have received the gate fees for the importation of this waste material.

It would seem that little if any real consideration has been given by the applicant or his agent to the removal of material from the site. The sole purpose of the application seems to be to retain what is there, import more (together with whatever gate income can be made) and to avoid the enforcement appeal.

The agent seems to assume that the 2003 permission is 'existing' although we and the Council say this is not a fall back position.

If the 2003 permission had been lawfully implemented, following the discharge of pre-commencement conditions, the approved plans did not provide for the significant importation of materials to site or for the lake floors to be 3 metres or more above natural ground level. The existing and proposed developments bear no resemblance to that which was approved in 2003. We do not accept the assertion that the application proposals would result in lesser impacts on our client than the 2003 permission.

We do not accept that a reduction in the material on site would be more harmful to residents as suggested. The earth movements to remove the unauthorised material would be for a limited period, rather than being faced with the scenario of this harmful development remaining in place in perpetuity.

We note the comments regarding economic viability, although it seems no detailed viability assessment has been provided, or indeed any information regarding the profits made from the unauthorised importation of significant quantities of waste material. The question of viability must have been a matter that the applicant assessed prior to the purchase of the site, this is a business decision he made and we do not consider it carries greater weight in the balance of material consideration than the need to remedy the harm to local residents from this significant unauthorised development. Contrary to the applicants agents conclusion we do not accept that this fundamentally flawed proposal is 'the right balance'.

Attention is drawn to the National Planning Policy Framework which has superseded the PPGs and PPS policy and guidance previously referred to in our letters. The core principles include '*recognising the intrinsic character and beauty of the countryside...contribute to conserving and enhancing the natural environment*'. The proposed development conflicts with these.

Section 11 refers to conserving and enhancing the natural environment, paragraph 109 advises that the planning system should '*prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability*'.

At 120 it is stated that '*to prevent risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.*', and that '*where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and or landowner*'.

Para 121 states that planning policies and decisions should ensure that '*the site is suitable for its new use taking into account of ground conditions...adequate site investigation information prepared by a competent person is presented.*'

In this instance there is insufficient information regarding contamination, a matter we have previously raised with the Council.

We would further comment that this land is not previously developed for the purposes of the NPPF. Its last lawful use was for agriculture so it is in effect a green field site for planning

assessment, no matter what unauthorised development currently exists and this is the context for consideration of the application.

We do not consider this development is sustainable, which in the context of the NPPF means *'ensuring better lives for ourselves don't mean worse lives for future generations' ... positive growth- making economic, environmental and social progress for this and future generations..'* The only person/s who have benefited from this unauthorised development to date are the land owner/s who have received the profits from the land fill.

Any recreational benefits from fishing lakes could be provided, if indeed there is sufficient water to fill any lakes, could be provided through a much reduced scheme that does not result in the unacceptable detrimental impacts on the occupiers of neighbouring properties that arise from this proposal. The applicant's desire to profit from the development does not carry more weight in the planning assessment than the environmental issues and impacts on local residents.

We trust that this additional material will be reported to the Committee, and would be grateful for confirmation of the proposed meeting date. We look forward or reading your assessment of the application.

Yours sincerely

REBECCA LORD MSc MRTPI
Senior Principal Planner

Direct Dial: 01256 382036
E-mail: Rlord@bell-cornwell.co.uk

Attachment: letter from Dr. Richard J Fox Ph.D (geol).



RE: Recent excessive ingress of Ground Water into Hertsfield Barn Pond.

To whom it may concern.

Dear Sir/Madam,

The local geology, rocks and sediments of an area can have a significant impact on the local water-course and groundwater flow patterns. Human activity on the other hand can detrimentally and easily changes the natural water-course balance or direction of groundwater flow.

The geology of the southern area of Maidstone Borough, including Staplehurst, the River Beult and Hertsfield Barn is underlain by Weald Clay capped by 'Drift' deposits of sand and gravels (see Figure below).

Weald Clay, like many other types of clay, is impermeable, which means that it acts as a vertical barrier to water flow. However, the sands and gravels of the overlying Drift are highly permeable and porous and can act as preferential flow paths for ground water into the local water-course. Commonly, the Drift deposits bordering the River Beult act a conduit for local drainage into the river. For many years this relationship has been in balance in the Hertsfield Barn area, until recently.

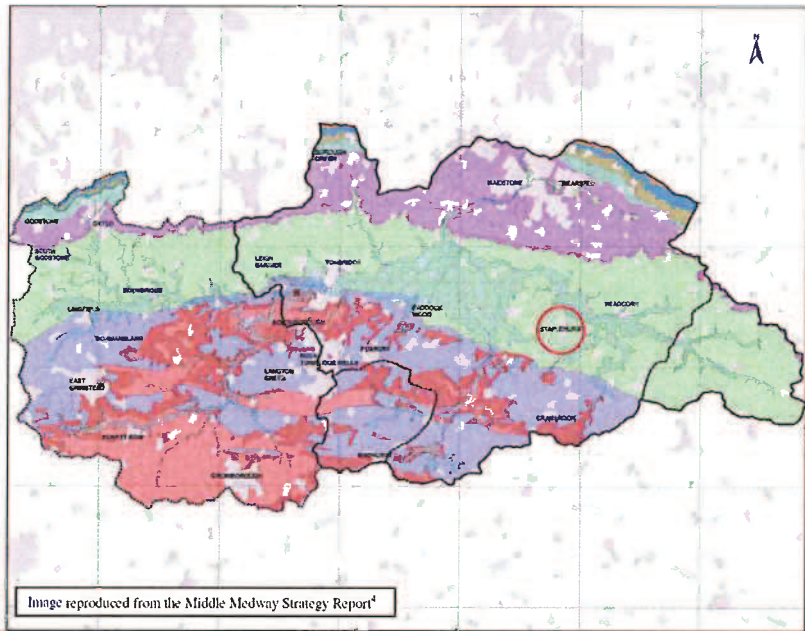
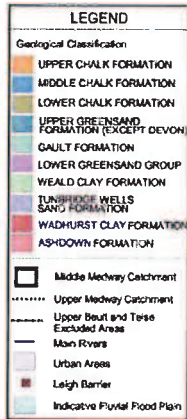
It is hereby concluded that compaction of the porosity and permeability system of the Drift deposits around Hertsfield Barn, from activity at the local Waste Disposal site, has significantly damaged the drainage patterns of the Drift and its flow directionality. The net effect of this impact has resulted in the continual flooding of the Hertsfield Barn pond, which now requires electrical pump emptying into the River Beult to avoid flooding surrounding properties. Local groundwater flow now appears to be preferentially diverted into the pond, as the pond was originally filled manually for many years before the Waste Disposal site development.

I believe that restoration work now needs to be carried out and drainage facilities put in place on the Waste Disposal site property to rectify this matter.

Yours Sincerely,

A handwritten signature in cursive script, appearing to read 'Richard J. Fox'.

Dr. Richard J Fox Ph.D (geol).



2-1

Annex 3

MA/11/1948 – Annex 3 – Commentary on issues

raised in letters of representation contained in Annex 2

- 1.1 I will deal with the points in the letters in turn starting with the letter dated 16 December 2012 from Bell Cornwell Planning Consultants on behalf of Mr David Padden.
- 1.2 Under the heading 'The Application Details' the letter raises issues in points 1 and 2 with regard to the description of the development being inaccurate as the development is for reservoirs and not lakes and raises concerns regarding the accuracy of the plans. The description of lakes or reservoirs is immaterial in the assessment of the planning merits of the application. The description and plans clearly show proposed bodies of water for recreational fishing use. The plans are submitted with detailed proposed land levels shown as well as spot levels and are drawn to a metric scale. The submitted plans are clear to enable consideration of the application.
- 1.3 Concern is raised in points 3 to 6 about the non reference to Hertsfield Barn as a residence and concern that the impact has not been considered as part of the application. The Council is aware of the existence of the dwelling and the impact on Hertsfield Barn and other residences in Hertsfield Lane have been considered in 5.7 of the main report.
- 1.4 In points 7 to 9 the letter of representation raises concern regarding the quantity of material indicated as required to complete the proposal and how this figure has been reached. The proposed scheme is a fully detailed scheme with the finished heights of the lakes clearly set out and the imported material would be required to fill the existing 'pit' and the subsequent creation of lake 1.
- 1.5 The letter refers in paragraphs 10 to 13 to whether the application is in fact a waste disposal site and the application should be dealt with by Kent County Council as the relevant authority. Under the Development Management Procedure Order 2010 an application should be submitted to the County Planning Authority if it relates to a County matter, see Regulation 10(1)(c)(i). Schedule 1, paragraph 1(1)(j) to the 1990 Act defines County matter as including the carrying out of an operation which is a "prescribed operation". The Prescription of County Matters England Regulations 2003 prescribe as County matters building/engineering operations which are "wholly or mainly for the purposes ofdepositing of waste". It is the Council's view that the operations would not be "wholly or mainly for the purposes of... depositing waste". Instead, the depositing of spoil would be incidental to primary objective to create lakes for the purposes of recreational fishing.

- 1.6 The next section of the representation is entitled 'The Environmental Statement'. Points 14 to 16 indicates that no scoping opinion was sought and alleges that the Environmental Statement (ES) is flawed as it fails to compare the proposed development with the 2003 position. There is no requirement for a formal scoping opinion application to be submitted to the Local Planning Authority prior to the submission of an ES. Whilst the ES does not compare the proposed scheme with the 2003 position the Council has assessed the development against the 2003 position as outlined in the main report.
- 1.7 Points 17 to 22 outlines arguments that the 2003 permission has not been implemented. This is the same view that the Council has and the application has been considered on the basis that the 2003 permission is not a fallback position.
- 1.8 There are issues raised in points 23 to 25 about the quality of the material imported to the site. The Environment Agency have been involved extensively in relation to the site and the unauthorised works. No action has been taken with regard to any alleged contamination of the land. The proposed material to be imported would be inert material with full details required as a planning condition. This would also be a requirement of the Environmental Permit from the Environment Agency.
- 1.9 The next part of the letter deals with 'Impacts on the Residents of Hertsfield Barn'. The issues raised in point 26 relate to the impact on the outlook of Hertsfield Barn. This issue is dealt with in section 5.7 under residential amenity and the submitted plan shows the proposed gradient and flatter element of the site between the drainage ditch and the site boundary.
- 1.10 Points 27 to 31 raise issues with regard to the accuracy or otherwise of the 2003 consent, that it is not possible to implement and is not a fallback position. It is argued that the 2003 scheme was fundamentally flawed and should not be a material consideration. However, it remains the case that the principle of such a development on this site was considered acceptable in 2003 when the Council granted planning permission. It is the Council's view that the 2003 permission has not been implemented and is not a fallback position. However, the decision to approve the 2003 application was a decision of the Council and is a material consideration in the determination of this application to which I give some weight.
- 1.11 The points raised in 32 to 35 relate to a loss of outlook. The distance between the dwelling and the top of the bank is sufficient not to result in an overbearing outlook. Although it would be a different view to the 2003 position it does not harm residential amenity.

- 1.12 Point 36 of the letter states that the proposal includes dense woodland planting should be placed on top of the crest to prevent overlooking and loss of privacy. I consider that the distance between the crest of the lakes and neighbouring properties is sufficient to prevent an unacceptable loss of privacy and the proposed planting would further filter any views.
- 1.13 I do not agree with assertion in point 37 that a view of new tree planting would harm a resident's outlook. Neither would the trees at that distance cause a significant loss of light.
- 1.14 In points 38 and 39 there is additional concern raised about loss of outlook and privacy, which have been dealt with above.
- 1.15 Point 40 makes reference to views from a field owned by the client of Bell Cornwell. There would be no grounds to refuse an application on the basis of a loss of outlook from land with a lawful use for agriculture.
- 1.16 The letter in points 41 and 42 refers to potential conflict between the planting and the stability of the reservoir banks. This matter is noted in the application documents and a condition or obligation in a Section 106 agreement would be imposed to secure appropriate planting.
- 1.17 Point 43 refers to the issue of the 2003 position being the correct baseline, which has been the basis of the consideration of this application.
- 1.18 The issue of further importation of material is raised in points 44 to 46 with regard to the potential income and questioning the need for the material to complete the development. It is demonstrated from the submissions that the material is required to complete the proposed scheme. The income from or cost of completing the development is not a weighty planning consideration in this matter.
- 1.19 The letter in points 47 to 51 concerns 'Flood Risk' and the ability of ground conditions for absorbing water and concern regarding drainage ditches. The matter of flooding and flood risk has been considered fully by the Environment Agency and no objections are raised on the grounds of flooding. The proposed improvements and enhancements can be secured by way of a condition and the Section 106 agreement would ensure full implementation.
- 1.20 The section entitled 'The Alternatives' comments on the cost of compliance and period of time for compliance with the EN within points 52 to 59. The Council has assessed the scheme on the basis that it would be successful in the enforcement appeal and the 2003 permission is not a fallback position. Therefore the cost and time to comply with the EN is not a consideration in the determination of the application.

- 1.21 Point 60 states that there are no alternative proposals in terms of lakes of a lower level or smaller lakes. The planning application has to be dealt with as submitted on whether the proposal put forward is acceptable on planning grounds.
- 1.22 The single point 61 deals with 'Ecology' and concerns that the base date surveys were 2010. The unauthorised works have changed the wildlife habitat on the site. However, the proposal includes significant landscaping proposals and wildlife enhancements as well as measures, including no additional abstraction from the river, to ensure the characteristics of the River Beult SSSI are unharmed. These measures and enhancements have been assessed by Natural England, the Kent Wildlife Trust and Kent County Council Ecology and none of these organisations raise any objections to the proposal.
- 1.23 The point 62 entitled 'Additional Relevant Policies' outlines policies relevant to waste disposal. As stated earlier the development is for the creation of lakes for recreational fishing and not a waste disposal site. The relevant policies are those that deal with that use and development and the importation of material including the traffic movements associated with such an importation have been assessed as part of the determination of the application.
- 1.24 The second letter of representation on the application was been submitted by the Hertsfield Residents Association (HRA), which comprises the owners of all 12 houses along Hertsfield Lane and dated 21 January 2012.
- 1.25 The first paragraph is a factual commentary of the enforcement action and appeal position in relation to the HRA.
- 1.26 The letter then makes 5 points (numbered i-v). For ease these are reproduced below (in italics) and commented on immediately after.

(i) fails to rectify any of the significant breaches of planning control at the site;

Although the planning application is partially retrospective, it also includes a proposed development and has to be considered as to whether it is acceptable in planning terms and not solely whether it rectifies breaches of planning control (though it is considered that the harm caused by these breaches should be addressed by requiring a scheme of implementation as discussed in the main report).

(ii) fails to rectify any of the significant issues for local residents caused by that development;

The planning merits of the scheme have been fully considered in light of the comments received from relevant consultees.

(iii) makes the situation even worse through the further importation of 51,000m3 of spoil;

The further importation of material is required to complete the scheme and fill the 'pit' where lake 1 is proposed.

(iv) creates a wholly unacceptable additional flood risk for local residents through the construction of reservoirs above ground level adjacent to residential properties; and

The concern regarding flood risk is addressed by the requirement of the Reservoirs Act and the provisions to ensure that the banks are secure. This would be further secured through the completion of a Section 106 agreement to ensure that the development is fully implemented.

(v) envisages the construction of a large clubhouse facility, involving both retail premises and a restaurant, entirely out of keeping with the rural environment and to the detriment of local residents through creating additional traffic movements, noise and disturbance.

The clubhouse would replace the existing buildings on the site and the size and particularly low eaves combined with the distance from public vantage points would ensure that this would not harm the rural character of the area. Furthermore, a condition would be imposed to ensure that the clubhouse was only used for purposes ancillary to the use of the site for recreational fishing.

1.27 The following three paragraphs of the letter deal with the issue that was also raised in the letter from Bell Cornwell that the ES does not assess the application against the 2003 position. As indicated earlier, whilst the ES does not compare the proposed scheme with the 2003 position the Council has assessed the development against the 2003 position as outlined in the main report.

1.28 A point is raised in the letter that none of the residents of properties in Hertsfield Lane were contacted in relation to the assessment of residential amenity that has been submitted as part of the application. There is not a requirement within planning law for the applicant or their representatives to engage with neighbours prior to submitting an application. This does not automatically mean that any assessment put forward as part of an application lacks validity.

1.29 Detailed points of objection are then raised under the broad headings of i-v above. Objection 1 deals with the lack of addressing the breaches of planning consent on the site. Detailed points a-d are then raised with (a) stating the lack of removing any material from the site. As stated earlier the scheme has to be considered as to whether it is acceptable in planning terms and not whether it rectifies breaches of planning control.

- 1.30 Objection 1b states there is no material alteration to the very high and steep banks. As a comparison, rather than the banks exceeding a height of 5.5m a minimum of 30m from the boundary of the application site the reformed land would be almost a metre lower and at least 42m from the site boundary. This lowering and re-grading of the land would move the banks further back from the boundary and reduce the oppressive nature.
- 1.31 The next objection 1c deals with the lack of reducing the earth that has been deposited within the floodplain. The Flood Risk Assessment has assessed the impact of the development on the area in terms of flood risk and flood storage capacity. Furthermore, the Environment Agency have assessed the details of the application and raise no objections to the scheme with regard to the impact on flood waters.
- 1.32 It is asserted in objection 1d that the lakes nearest the residents should not be raised and that this was never envisaged as part of the 2003 application. I do not consider that the 2003 application is a fallback position for the development and the application has to be considered on its own merits and the creation of above ground lakes is not unacceptable in principle. However, it was stated that the lakes outside the flood plain were 'above ground' and indicated a maximum slope gradient of 1 in 8. Therefore, it is my view that the raising of land was part of the original 2003 proposal.
- 1.33 Objection 2 concerns the importation of further material and the noise disturbance and loss of amenity from lorry movements would occur. The importation of the material would be strictly controlled through the agreed implementation programme and enforced through the Section 106 and conditions. This would be done to minimise the impact on nearby occupiers.
- 1.34 The letter raises concerns about the quality of the material already deposited on site and as stated already, the Environment Agency have been involved extensively in relation to the site and the unauthorised works. No action has been taken with regard to any alleged contamination of the land. The proposed material to be imported would be inert material with full details required as a planning condition. This would also be a requirement of the Environmental Permit from the Environment Agency.
- 1.35 The objection 4 deals with a potential breach of lake 3 and its impact on adjacent dwellings. The fact that the lakes are of a size that they fall under the Reservoirs Act would mean that the structural stability of the lakes would be closely monitored in order to ensure compliance with the Reservoirs Act. The Environment Agency confirm that all reservoirs capable of holding more than 25,000 m³ of water above natural ground level (being held back by a bund or dam) are required to have a contracted Supervising Engineer at all times and periodically an Inspecting

Engineer must be appointed to inspect the reservoir. The Environment Agency is the Enforcement Agency for this.

- 1.36 Objection 5 relates to the clubhouse and concerns that the clubhouse is unjustified and would attract passing trade (objection 5a). The clubhouse would be conditioned to be ancillary to the use of the site for recreational fishing and not for any other purposes. The principle for the need for some buildings on site was accepted when temporary consent was granted for the retention of the existing buildings on site. The permission given was only temporary as the nature of the buildings was not appropriate for permanent permission.
- 1.37 A comparison is drawn under objection 5b between a proposed clubhouse under the 2003 application and this application. As stated I do not consider that the 2003 permission is a fallback position and the proposal for a clubhouse to serve the proposed facility should be considered on its own merits. Given that the principle of the need for building(s) on the site has been previously accepted the key considerations of the proposal are the impact of the clubhouse. The clubhouse would replace the existing buildings on the site and the size and particularly low eaves combined with the distance from public vantage points would ensure that this would not harm the rural character of the area.
- 1.38 Objections 5c, 5d and 5e state that the facilities within the clubhouse are not essential, there is no need for a shop on site and the clubhouse would not be ancillary. There is no requirement within planning policies to only allow essential facilities at such sites. The considerations are whether the facilities are reasonable and whether the resultant building or buildings cause any planning harm. The facilities are not of a scale that can be deemed to be unreasonable for the running of the site and there is no significant planning harm caused by the building. The clubhouse would be kept ancillary to the use of the site for recreational fishing by planning condition which would be enforceable if a breach was to occur. An ancillary retail element has been accepted under the granting of consent for the temporary buildings and a suitable condition ensuring this would be appropriate.
- 1.39 The assertion of objection 5f is that the building is out of keeping with the area and should be of outstanding architecture. There is no requirement within policy for rural buildings to be of outstanding architecture. Furthermore, the design of the building is rural in nature and would not be prominent in the landscape. The scale and design of the building is considered acceptable and would not result in significant harm to the character and appearance of the rural area.
- 1.40 The third letter of representation on the application was been submitted by Bell Cornwell Planning Consultants on behalf of Mr David Padden and

dated 25 May 2012. This letter includes an attached letter from a geologist regarding the geological makeup of the area and its impact on surface water drainage.

- 1.41 The letter outlines concerns with the existing situation in that the unauthorised landform may have damaged the natural drainage route and contributed to greater run off onto a neighbouring property at Hertsfield Barn. The letter from the geologist recommends that restoration work be carried out and drainage facilities put in place on the application site to rectify this matter. This harm would be remedied as part of the proposal and the upgrading of the drainage channel and the creation of an overflow system that would direct water from lake 1 down to lake 3.
- 1.42 The point is made that the Environment Agency is only a statutory consultee on river flooding and not other matters. Whilst the Environment Agency are statutory consultees on flooding matters their response includes comments on other aspects of the development.
- 1.43 It is stated that the material does not deal with the geological impact of the unauthorised importation of material and no mitigation to alleviate these issues is proposed. However, the accompanying letter from the geologist recommends that restoration work be carried out and drainage facilities put in place on the application site to rectify this matter. These facilities are proposed and will be secured by way of a condition.
- 1.44 An issue is raised with regard to proposed planting on the banks of the river and the need to ensure compliance with the Reservoirs Act in terms of stability. A condition is included within the recommendation to ensure that the species included within the planting scheme are compatible with the requirements of the Reservoirs Act.
- 1.45 The letter notes the response from the Environment Agency on the matters of the bespoke permit from the Environment Agency and concern regarding the deliverability of the scheme due to the inability to extract water from the River Beult. The applicant has indicated how the lakes would be filled without any further extraction required from the river over and above the existing permitted level. There would be a significant period of time before the lakes would be able to be used but the facility does have usable lakes and I do not consider that the scheme would be undeliverable.
- 1.46 There is an issue raised with regard to the current owner and the importation of material and subsequent gate fees. I do not consider that these are significant planning considerations in relation to this scheme and the issue of viability is not significant given that the Council's view is that the alternative is the requirements of the enforcement notice and the

complete removal of the material. However, the scheme has to be judged on its own merits and whether it is acceptable in planning terms.

- 1.47 The letter again indicates that the 2003 consent is not considered a fallback position. This is a position that the Council agrees with.
- 1.48 The planning agent indicates that the 2003 permission did not provide for the significant importation of materials to the site and the existing and proposed developments bear no resemblance to that which were approved in 2003. The 2003 permission included above ground lakes and as such I do not agree that there would be no importation of material.
- 1.49 A point is raised that the movement of material off site would be more harmful to residents than the proposed scheme. This application has not been judged as a comparison with the unauthorised development or indeed the requirements of the Enforcement Notice but rather on its own planning merits.
- 1.50 There is concern regarding the assertion that the proposal is the only viable scheme. As stated above in 1.46 the viability of alternative schemes or the requirements of the Enforcement Notice is not a significant planning consideration in the determination of this application.
- 1.51 The letter includes reference to the National Planning Policy Framework (2012) regarding the conserving and enhancing the natural environment, prevent risks from pollution and land instability. The issue of the visual impact of the proposal on the character and appearance of the surrounding area has been fully considered in the main report. The alleged contamination of the imported material was investigated by the Environment Agency and no action was taken and planning conditions are proposed to ensure the quality and use of the proposed material is acceptable.
- 1.52 The letter states that the site is classified as greenfield and not previously developed land as the lawful use of the site is agricultural. It is my view that the land is a greenfield site due to its lawful use for agriculture and furthermore, following the completion of the scheme, if approved, the site would remain classified as a greenfield site and not a previously developed land.
- 1.53 There is an assertion from the letter that the development is not sustainable as the owners are the only persons that have benefitted from the unauthorised development and any recreational developments could be provided through a reduced scheme and that the applicant's desire for profit does not carry more weight than the environmental issues and impacts on residents. I do not agree that the owners are the only people to benefit as the scheme would result in wider improvements for flood

storage, ecological enhancements as well as a recreational facility that would be used by the public. I do agree that the applicant's desire for profit should not be given more weight than the environmental issues and impacts on residents in the determination of the planning application and the considerations in the main report have been assessed on this basis.

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A photograph of a green field with a fence and a tree. The field is in the foreground, and a fence runs across the middle ground. In the background, there is a low hill or ridge. A large tree is on the left side of the image. The sky is overcast.

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MONK LAKES
BUT TICKET
REQUIRED

Monk Lakes
Coarse Fishing

29.05 2012

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BRIDGES
LAKE

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LAKE

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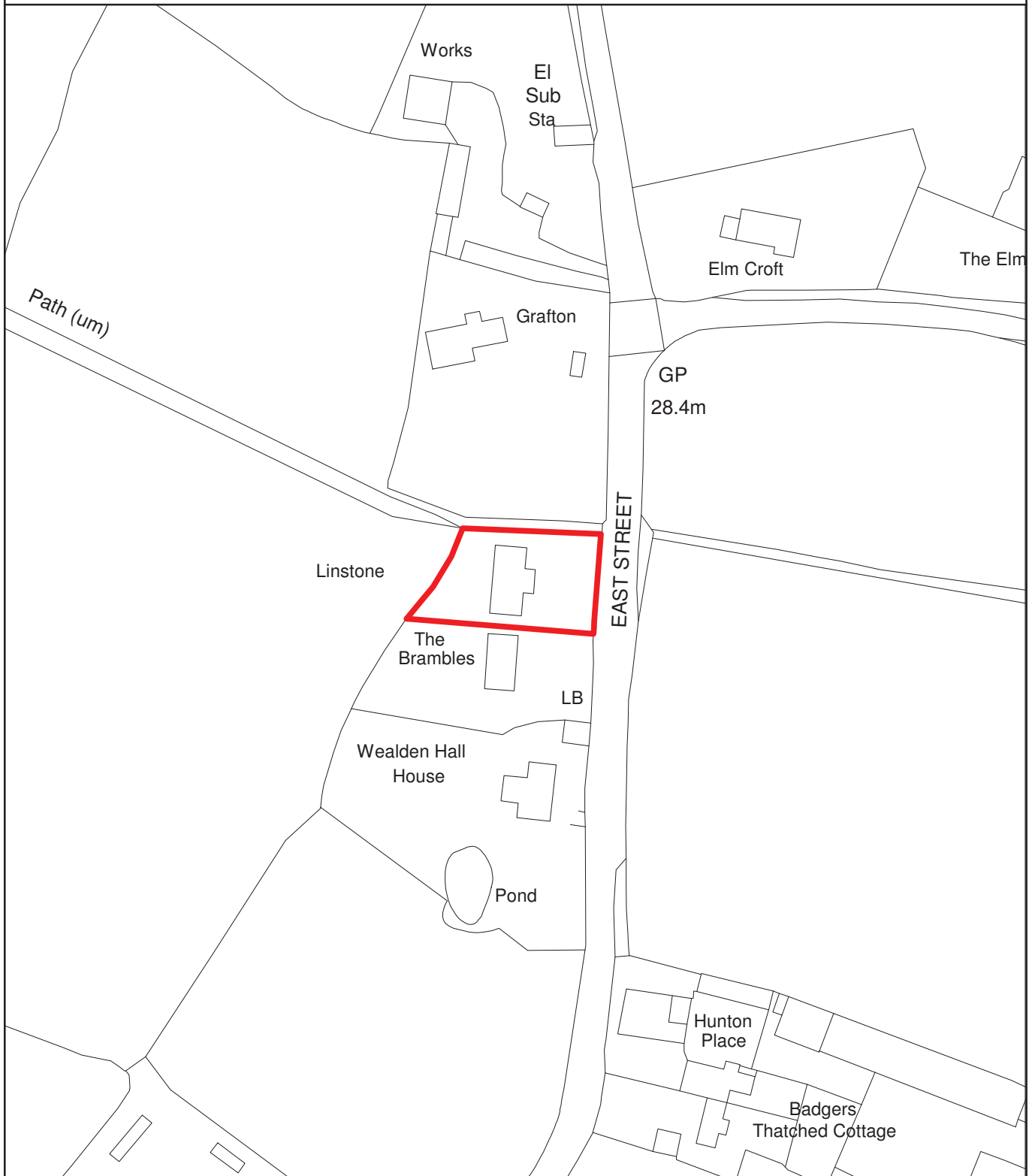
Agenda Item 17

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0436

GRID REF: TQ7249

LINSTONE, EAST STREET,
HUNTON.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/0436 Date: 5 April 2012 Received: 7 April 2012

APPLICANT: Mr Graham Reid

LOCATION: LINSTONE, EAST STREET, HUNTON, MAIDSTONE, KENT, ME15 0RB

PARISH: Hunton

PROPOSAL: Amendments to previously approved development under MA/11/1242 (conversion of existing double garage into additional living accommodation with first floor extension over) being alterations to fenestration detail and external materials to be used as shown on site location plan and drawing nos. DL/1330 Issue A sheets 1 & 2 received 07/04/12.

AGENDA DATE: 7th June 2012

CASE OFFICER: Kathryn Altieri

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

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

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: H33, ENV28, ENV34
- South East Plan 2009: CC6, C4, BE6
- Village Design Statement: N/A
- National Planning Policy Framework
- Supplementary Planning Document – Residential Extensions

2. HISTORY (1974+)

- ENF/12133 - Non-compliance with condition 2 (materials) of MA/11/1242 - planning application invited
- MA/11/1242 - Conversion of existing double garage into additional living accommodation with first floor extension over – approved/granted with conditions
- MA/92/0486 - Pitched roof front extension – approved/granted with conditions

3. CONSULTATIONS

- Hunton Parish Council wish to see the application refused;

"Hunton Parish Council wishes to see this retrospective application refused and request the application is reported to Planning Committee. The Parish Council considers that a more suitable finish than painted render should be proposed for the exterior."

- Conservation Officer: Raises no objections;

"The revised scheme will still have no significant impact on the setting of the nearby listed building."

4. REPRESENTATIONS

- 2 neighbour representations received raising objections over;
 - Render will make approved development more visually prominent
 - Impact upon character of area
 - Scale/impact of approved extension

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site relates to a residential plot of land that is some 725m² in area and occupied by a 1950's detached bungalow with an attached double garage. Set back more than 13m from East Street, the property (known as 'Linstone') is some 40m to the south of the junction with Redwall Lane and is within the open countryside and parish of Hunton. The surrounding area is sparsely populated with residential properties of differing design, scale and age, including a Grade II listed property, known as 'Wealdon Hall House' some 30m to the south of the site. Orchards are found to the rear (west) of the site and paddock land is found to east of the site. A public footpath (KM171) also runs parallel with the side (northern) boundary of 'Linstone'.
- 5.1.2 The application site is also within the Greensand Ridge Special Landscape Area, as designated by the Maidstone Borough-Wide Local Plan 2000.

5.2 Relevant background

- 5.2.1 This retrospective application is an amendment to previous approval MA/11/1242 that was for the conversion of the attached double garages into additional living accommodation and for the erection of a first floor extension over these garages.
- 5.2.2 Condition 2 of this permission stated that, *"The materials to be used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building"*.

5.2.3 The applicant has not built the development approved under MA/11/1242 in accordance with this condition, and so under Planning Enforcement investigation ENF/12133, an amended planning application was advised. I would like to add at this point that it is not a criminal offence to carry out any works before planning permission is granted but obviously any work is carried out the applicant's own risk.

5.3 Proposal

5.3.1 The changes to MA/11/1242 that are to be considered under this resubmission are as follows;

- Externally, the side and rear elevations are rendered and not facing brick
- The style of the first floor front and rear windows have been amended
- The ground floor rear window has been replaced with patio doors

5.3.2 The finish (to the side flanks and rear elevation only) is of a traditional lime and white cement and rendering sand (6 and 1) mix, which gives a natural light yellow colour. The front elevation is to remain as matching brickwork.

5.4 Principle of Development

5.4.1 The principle for the conversion of the double garage with a first floor extension over has already been accepted under MA/11/1242.

5.4.2 This application is only concerned with the amendments in fenestration detail and the decision to externally render the two side flanks and rear elevation of the building.

5.5 Visual amenity

5.5.1 The most relevant policy under the Maidstone Borough-Wide Local Plan 2000 relating to householder development of this type within the open countryside remains as Policy H33. I will consider the development against the criteria set out in this policy.

5.5.2 The overall design, scale and height of the development approved under MA/11/1242 is unchanged and once again it must be emphasised that this application is only concerned with the amendments to the fenestration details and choice of external materials.

5.5.3 I consider the altered fenestration details to be more simply designed and more in proportion with the existing openings; and as such more in keeping and the character of the property as a whole, than what was previously shown under MA/11/1242. The amended openings are in the same position as what were

previously approved under MA/11/1242. I therefore raise no objections with regards to the visual impact in this respect.

- 5.5.4 The render, as previously stated, is of a traditional lime and white cement and rendering sand (6 and 1) mix that does positively reflect other rendered buildings near and to the south of the site (those being Wealdon Hall House and Hunton Place).
- 5.5.5 Moreover, the rendering at ground floor level is not significantly visible from any public vantage point, what with it being largely screened by neighbouring property 'The Brambles' and the existing hedging/fencing for boundary treatment; and the front elevation, being the most visually prominent elevation of 'Linstone', is to remain in matching brick. The retention of the brickwork to this façade certainly maintains the character of the main dwelling, as well as confidently integrating the approved development with the original dwelling. Furthermore, the existing mature vegetation that acts as boundary treatment for 'Grafton' (to the south) largely screens the development from view when approaching the site from the north along East Street.
- 5.5.6 It is also my view that whilst the rendering at first floor level to the rear and side of the property is noticeable from the public footpath to the north of the site, it is no more visually harmful than matching brickwork. Indeed, given the light coloured nature of the render and the fact that there are other rendered buildings close to the site, I cannot argue that the use of this external finish significantly appears out of context with the surrounding area enough to justify refusal alone. To emphasise the point again, the principle for the extension has already been granted under MA/11/1242.
- 5.5.7 I consider this chosen finish to be neutral and sympathetic to the main dwelling and the surrounding area, and I do not take the view that it is anymore visually intrusive than if the walls were of facing brick.
- 5.5.8 I therefore take the view that the amendments made do not adversely affect the character and appearance of the main dwelling, the surrounding area or adjacent buildings; and so does not result in a development that appears visually incongruous in the countryside that falls within the Greensand Ridge Special Landscape Area.

5.6 Other matters

- 5.6.1 Given the modest scale, design, nature and location of the amendments, I am satisfied that the development would continue to not have a significant impact upon the amenity of any neighbour; the setting of the nearby Grade II listed

property (Wealdon Hall House); or highway safety. Please also note that the Council's Conservation Officer also raises no objections to this application.

6. CONCLUSION

- 6.1 The comments made by Hunton Parish Council and the neighbours have been fully addressed in the main body of this report.
- 6.2 It is therefore considered that the proposal is still acceptable with regard to the relevant provisions of the Development Plan, the Council's adopted Supplementary Planning Document – Residential Extensions, and all other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The external render finish to be used in this development hereby permitted shall be of a lime and white cement and rendering sand (6 and 1) mix and shall subsequently be maintained as such thereafter;

Reason: To ensure a satisfactory appearance to the development. This is in accordance with policies H33 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework.

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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**LINSTONE, EAST STREET,
HUNTON, MAIDSTONE, KENT,
ME15 0RB**

Reference number: MA/12/0436

One further representation from a neighbour (Wealdon Hall House) has been received raising objections over the visual impact of the render, the design, scale and location of the fenestration detail, and overlooking. These issues have been dealt with in the committee report. In terms of the overlooking issue, I would like to emphasise that this neighbouring property is to the south of the application site, set more than 40m away from the approved side extension; and that the first floor rear window faces directly westwards over the applicant's own garden area. As such, no significant overlooking occurs.

I am also satisfied that the roof tiles on the approved extension are acceptable.

My recommendation remains unchanged.

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26.04.2012

26.04.2012



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26.04.2012



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22.05.2012



THE MAIDSTONE BOROUGH COUNCIL
PLANNING COMMITTEE – 7th June 2012

APPEAL DECISIONS:

1. - **MA/11/1406** Erection of a one bedroom dwelling with car parking space as shown on drawing nos. KW/1685/01/LJ/11, KW/1685/02/LJ/11 and A4 site location plan received on 15th August 2011.

APPEAL: Dismissed

18 Merton Road, Bearsted, Maidstone, ME15 8LJ

DELEGATED POWERS

2. - **MA/11/1237** Demolition of No. 170 Ashford Road and erection of six detached dwellings with associated access, hardstanding and garaging in accordance with plans received on the 22 July 2011.

APPEAL: Dismissed

170 and R/O 166-168 Ashford Road, Bearsted, Maidstone, Kent, ME14 4NB

DELEGATED POWERS

3. - **ENF/11738** Land divided into 4 pieces being prepared, possible sell to Gypsies.

APPEAL: ALLOWED WITH CONDITIONS

Land at Greenacres, Wagon Lane, Yalding

4. - **ENF/10748** Change of use/unauthorised buildings.

APPEAL- DISMISSED

Land at The Stables, Wagon Lane, Paddock Wood, Yalding

Please note amendments to the Appeals list.

3. - ENF/11738 Residential gypsy development

APPEAL: DISMISSED

Land at Greenacres, Wagon Lane, Yalding

4. - ENF/10748 Residential gypsy development

APPEAL- ALLOWED WITH CONDITIONS

Land at The Stables, Wagon Lane, Paddock Wood,
Yalding



THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 20 of 2011
Tree at 591 Loose Road, Maidstone.

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Schedule

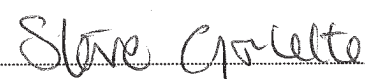
Individual Trees: T1. Horse Chestnut

Groups of Trees: None

Areas of Trees: None

Woodlands: None

Extract from OS Map TQ 7652


 [Director of Change, Planning and The Environment]
 Assistant Director of Environment & Regulatory Services

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

REPORT OF THE HEAD OF PLANNING

REFERENCE: Tree Preservation Order No. 20 of 2011

TITLE: Tree at 591 Loose Road, Maidstone, Kent

AGENDA DATE: 7 June 2012

CASE OFFICER: Nick Gallavin

Tree Preservation Order (TPO) No.20 of 2011 was made on 30th November 2011 under section 201 of the Town and Country Planning Act 1990 to protect one Horse Chestnut tree. One objection to the making of the order has been received and therefore the Council is required to consider this before deciding whether the TPO should be confirmed.

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

- Councillor Hogg has, following notification that the Landscape Officer was minded to allow the order to lapse, requested it be reported to planning committee for consideration on the grounds that felling of the tree would be detrimental to the character and amenity of the area.

POLICIES

Government Policy: NPPF 2012
DCLG, 'Tree Preservation Orders: A Guide to the Law and Good Practice'
South East Plan 2009: C4
MBC: Maidstone Landscape Character Assessment 2012
Landscape Guidelines 2000

BACKGROUND

At the time of the making of the order, it was understood that the owner of the Horse Chestnut tree was under pressure to fell it and may have been considering doing so. As a result, it was considered expedient to protect the tree by the making of a TPO.

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

The Horse Chestnut tree is a mature, healthy specimen, prominent from the A229 Loose Road and therefore makes a valuable contribution to the character and amenity of the area. The tree is considered to be under threat due to previous root damage and potential felling. Therefore, it is considered expedient to make the tree the subject of a Tree Preservation Order.

The Section 201 direction bringing the order into immediate effect expires on 30 May 2012. Despite the fact that the direction expires before the date of this Committee, under current legislation, this order can still be confirmed at any time up until 5 October 2012.

Since the TPO was made a tree application has been submitted by the neighbour at 589 Loose Road, reference TA/0041/12. The application proposal is to cut back branches overhanging 589 Loose Road. This report does not consider the merits of that application. However, if the Tree Preservation Order is allowed to lapse, the decision on that application will no longer have any effect.

OBJECTIONS

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

One objection has been received to the order, within the statutory 28 day period from its making by the neighbour at 589 Loose Road. The full text of the objection is attached to this report as Appendix A.

The grounds of the objection/s are summarised as follows: -

The tree is in the wrong place and too close to his property. It has created a lot of concern and hard work, necessitating daily sweeping of leaves in Autumn and blossom in Spring to prevent his car from sliding on the sloping driveway.

The tree has caused thousands of pounds worth of damage to the driveway, cracking tarmac and lifting large chunks.

The owner is unable to leave his car at the entrance of his driveway because falling twigs, branches and nuts could damage the vehicle.

Massive roots are visible which are damaging his retaining brick wall.

Falling debris endangers public safety, including school children that wait for the bus at the entrance to his driveway.

The tree is not old enough to warrant a Tree Preservation Order.

The tree is riddled with disease; the leaves turn brown and shrink in May and June and drop off.

REPRESENTATIONS

No other representations were received.

CONSIDERATIONS

SITE AND SURROUNDINGS

The tree is growing in the northwest corner of the front garden of 591 Loose Road. It is in an elevated position relative to the level of the A229 Loose Road and is visible from multiple public viewpoints. Its location is adjacent to a busy main road in a suburban area. The property in which the tree is growing is a corner plot, at the junction of Loose Road and Norrington Road. Surrounding tree cover is moderate to low.

DESCRIPTION OF TREE

The tree is a mature Horse Chestnut, reported by the owner to be around sixty years old. It reaches an estimated height of ten metres with a radial crown spread of five metres and a stem diameter (measured at 1.5m above ground level) of 55 centimetres.

The tree is generally in good health and condition. A number of small pruning wounds are present throughout the crown, consistent with previous selective branch removal. The tree owner verbally confirmed that a tree surgeon was employed to carry out some works to the tree approximately four to five years ago. There is also evidence of crown reduction on the north side, consistent with the tree having been previously cut back to the boundary by the neighbour at 589 Loose Road.

BACKGROUND TO THE MAKING OF THE ORDER

The neighbour and the owner both report that the leaves of the tree turn brown early in the season. This is consistent with damage by the now widespread Horse Chestnut leaf miner insect and can result in premature defoliation, but is generally not regarded as affecting the overall health of the tree in a significant way. Continuing repeated defoliation, especially when it occurs early in the growing season, may lead to an overall gradual decline in tree vigour, but death occurs rarely and is usually found to involve other factors, such as bacterial canker.

The crown of the tree overhangs the drive of 589 Loose Road to the north by approximately one metre, consisting largely of regrowth since it was last pruned. The crown also extends over the pavement, highway and bus stop to the west, but this does not appear to conflict with vehicles or pedestrians at this time. No overhead cable conflicts were noted, but a telephone cable is present to the east side, just clear of the current crown spread.

A large root, probably from this tree can be seen growing between two retaining walls on the northern boundary. Photographic evidence dated 2006 and 2007 has been provided by the owner to demonstrate damage to this root, including drilling of holes and saw cuts. This damage is still visible and consistent with the

operations described. The presence of surface roots with minor associated damage, within the tarmac driveway of 589 was also noted.

The tree is prominent and is considered to make a valuable contribution to the character and amenity of the area. In an amenity evaluation assessment, the tree scored 17.5, just exceeding the benchmark score of 17, suggesting that it just meets the criteria for protection on amenity grounds.

At the time of the making of the order, it was understood that the owner of the tree was under pressure to fell it and may have been considering doing so. Where the owner is under pressure to fell the tree, a Tree Preservation Order gives the Council control over the decision to fell and enables replanting to be secured, should the tree ultimately be felled.

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

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

Whilst inconvenient, the need to sweep leaves and blossom is not normally considered to be a reason not to confirm a Tree Preservation Order.

Minor tree root damage to the driveway surface is clearly visible, but other trees are present to the North that could be wholly or partly responsible for the damage. If the Horse Chestnut is found to be causing some or all of the damage, this could be addressed by an application to carry out root pruning works and is not grounds to not confirm the order.

The risk of falling twigs, branches and nuts damaging a vehicle at the driveway entrance is considered low, particularly as the crown does not currently extend significantly over the drive due to previous pruning. There is also a significant area of hardstanding at the property, providing alternative positions to leave a vehicle.

One large root is visible as described in above. The neighbour stated verbally during a site visit by the Landscape Officer that the presence of this large root has prevented the newer section of the retaining wall from being continued as he would have wanted. However, no recent damage to structures was noted during the site visit

A bus stop is present adjacent to the tree, which the crown overhangs, but no defects were noted that would indicate an increased or abnormal risk of falling debris and no significant deadwood was noted during inspection.

The age of a tree does not impact on the Council's ability to make or confirm a Tree Preservation Order. However, its size and anticipated safe useful life expectancy are considered in the amenity assessment.

The leaves turning brown and dropping off are probably due to Horse Chestnut leaf miner. This is discussed in the main body of the report.

EXPEDIENCY

At this time, the tree scores just enough in an amenity assessment to indicate that it merits protection on amenity grounds. However, its score is very close to the benchmark and its continued protection is therefore considered to be a balanced issue.

The tree was originally protected on the grounds that it was under threat due to previous root damage and potential felling. It is clear that the neighbour at 589 Loose Road would rather see the tree removed but that the owner at 591 has no intention of allowing this. The owner is only able to control works to the tree within his own property boundaries, but this includes control of felling.

Continuing protection by a TPO would enable the Council to control works to the tree that the neighbour at 589 may choose to carry out under common law rights. The neighbour is able, without the owner's consent, to cut back the parts of the tree that trespass onto his property. This right has been exercised in the past, with overhanging branches. As it has been done before, doing so again would, in my opinion, have little impact on the health or amenity value of the tree at this time. However, the past pruning has left a slightly unbalanced crown and if carried out on an ongoing basis, would have an increasing impact on the crown shape as the tree grows and the crown increases in size.

The right to cut back the parts of the tree that trespass onto his property has not been exercised in the same way with roots, but I consider that it could be without detriment to the tree's long term health and stability. The large root described is already severed, so it is unlikely to be contributing to water and nutrient uptake. It would be reasonable to expect that the level change between the two gardens will have restricted rooting into the neighbour's property at driveway level, so severing any roots present beneath the drive of 589 Loose Road is unlikely to have a significant impact on the tree.

The matter of expediency has therefore been reconsidered. The threat of felling is no longer a consideration as this is controlled by the owner, who wishes to retain the tree. The neighbour may choose to exercise common law rights to cut back trespassing parts of the tree, but this is unlikely to be detrimental to the long term health of the tree.

It would not be appropriate, in my opinion, for the Council to use a Tree Preservation Order to lend support to a tree owner where the owner retains control over works to the tree. A difference of opinion exists between two neighbours and there is an ongoing dispute, but the tree's contribution to the character and amenity of the area is not directly under threat as a result.

CONCLUSION:

The confirmation of the Tree Preservation Order is a balanced case on amenity grounds but the objection received does not raise any issues which are sufficient to throw the making of the Order into doubt.

The tree owner is strongly opposed to the felling of the tree despite pressure from the neighbour. It is therefore not considered expedient for the Council to continue to protect the tree as the owner ultimately has control over works to the parts of the tree within his property.

RECOMMENDATION:

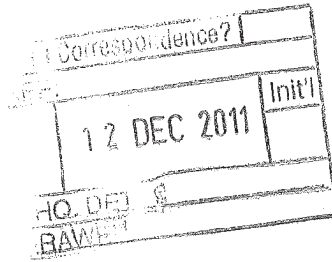
ALLOW TO LAPSE Tree Preservation Order No. 20 of 2011.

BACKGROUND DOCUMENTS:

406/100/344- TPO No. 20 of 2011

APPENDIX A
OBJECTION

objection



589 Loose Road
Maidstone
Kent
ME15 9UH
8th December 2011

Your Ref 406/100/344

Dear Sirs,

I was most surprised to receive a letter from you dated, 30th November 2011, stating that my neighbour Mr Genge, the owner of 591 Loose Road had managed to secure a preservation order on the horse chestnut tree which is 1.7mt away from my retaining wall and driveway. It was only on the 7th November 2011 I received a letter from you (protected tree checked on 591 Loose Road) confirming that the tree in question was not on a preservation order! I enclose a copy of the letter.

This has shocked and angered me. I've had nothing but trouble from this eccentric neighbour from the minute I moved into my property in 2004 and he has bullied me and most of the neighbourhood over the years. This tree being so close has always been a problem and on many occasions I've asked kindly for him to come up with a solution and compromise, but sadly to no avail. I wrote to Mr Genge on the 7th November 2011 asking for a solution, but again he ignored the situation (I enclose copy). I wrote to Maidstone Mediation for help, but there again Mr Genge refused to participate (I enclose copy of their reply).

Firstly I would like to point out that this tree is too close to my property and over the years has caused thousands of pounds worth of damage to my driveway, cracking the tarmac and lifting large chunks, massive roots are visible to the eye which are damaging my retaining brick wall. This tree should never have been allowed to be so close to my property, and allowed to grow so large. A bit of maintenance would have prevented damage (no consideration to others as usual). Over the years this tree has created a lot of concern and hard work, sweeping leaves daily in autumn and blossom in spring, I have to do this daily to make sure I am able to drive my car through on my steep driveway so I don't slide. I can never make full use of leaving my car at the entrance because of falling twigs and dead branches and heavy nuts could do considerable damage to my vehicle.

I love trees and do not wish to fell any tree but this one is in the wrong place and too close to my property, it is also too close to the main road. Falling debris is endangering the safety of the public walking under it, and often school children wait the entrance of my drive waiting for the bus so they are in danger too! I feel this tree is not old enough to warrant a preservation order and is riddled with disease, the leaves start to brown and shrink in May and June and drop off. If the tree could be felled it would be nice or at least to be trimmed professionally including roots so I would be able to have new tarmac and enjoy my property properly as a lot of home owners do. I take a lot of pride in my house and garden; please don't take this away from me! I feel strongly that a new law should be introduced which laid down new measures where these large trees could be planted, that would save a lot of misery throughout the country.

I look forward to hearing from you,

Gerard Lizzi

Gerard Lizzi

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