

# AGENDA

## PLANNING COMMITTEE MEETING



Date: Thursday 7 April 2016  
Time: 6.00 p.m.  
Venue: Town Hall, High Street,  
Maidstone

Membership:

Councillors Ash, Clark, Cox, English (Chairman),  
Harper, Harwood, Hemsley, Munford,  
Paine, Paterson, Perry, Round and  
Mrs Stockell

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Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 14 April 2016

**Continued Over/:**

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**Issued on Wednesday 30 March 2016**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact Debbie Snook on 01622 602030**. To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

**Alison Broom, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 17 March adjourned to 24 March 2016 - to follow
11. Presentation of Petitions (if any)
12. Report of the Head of Planning and Development - Deferred Items 1
13. 12/1544 - Orchard Farm Nursery, Chartway Street, Sutton Valence, Maidstone, Kent 2 - 13
14. 14/505125 - Lenham Ironmongers Ltd, 8 Faversham Road, Lenham, Kent 14 - 20
15. 15/501168 - Orchard Farm Nursery, Chartway Street, Sutton Valence, Kent 21 - 31
16. 15/505493 - Land Adjoining Greengates, Lenham Road, Headcorn, Kent 32 - 42
17. 15/506245 - The Chances, Lughorse Lane, Hunton, Kent 43 - 53
18. 15/506338 - The Chances, Lughorse Lane, Hunton, Kent 54 - 64
19. 15/506840 - Land North Of Bicknor Wood, Gore Court Road, Maidstone, Kent 65 - 76
20. 15/506897 - Morry Farm, Morry Lane, East Sutton, Kent 77 - 98
21. 15/510023 - Caledonia, Workhouse Lane, East Farleigh, Kent 99 - 105
22. 16/500014 - Land West Of 73, Haste Hill Road, Boughton Monchelsea, Kent 106 - 126
23. 16/500374 - The Forstal, Mount Castle Lane, Lenham Heath, Kent 127 - 155
24. 16/500889 - Street Farm, The Street, Boxley, Kent 156 - 162
25. Appeal Decisions 163
26. Chairman's Announcements

## PART II

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

### **Head of Schedule 12A and Brief Description**

- |  |                                |           |
|--|--------------------------------|-----------|
| 27. Exempt Appendix to the Report of the Head of Planning and Development Relating to Application 15/505493 - Land Adjoining Greengates, Lenham Road, Headcorn, Kent | 1 – Information re. Individual | 164 - 175 |
|--|--------------------------------|-----------|

### **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.**

**BACKGROUND DOCUMENTS: The background documents for the items on the agenda are to be found on the respective planning files for each application and on the files for those applications referred to in the history section of each report. Background documents are available for inspection during normal office hours at the Maidstone Borough Council Gateway Reception, King Street, Maidstone, Kent ME15 6JQ.**

# Agenda Item 12

## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

**7 APRIL 2016**

#### **REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT**

The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

<b>APPLICATION</b>	<b>DATE DEFERRED</b>
<p><u>14/504109 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 2 NO. NON-ILLUMINATED METAL POLE MOUNTED SIGNS (RETROSPECTIVE APPLICATION) - HUNTON C OF E PRIMARY SCHOOL, BISHOPS LANE, HUNTON, KENT</u></p> <p>Deferred to enable the Officers to negotiate movement of the signage to locations that are less visually intrusive.</p>	14 January 2016
<p><u>14/0668 - RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE OF LAND FROM AGRICULTURAL TO RESIDENTIAL INVOLVING THE STATIONING OF ONE MOBILE HOME AND THE LAYING OF HARD SURFACING - OAKLANDS, GRAVELLY BOTTOM ROAD, KINGSWOOD, MAIDSTONE, KENT</u></p> <p>Deferred to enable the Officers to investigate the length of time and details necessary for a temporary, personal permission to be issued.</p>	17 March adjourned to 24 March 2016
<p><u>15/505411 - OUTLINE PLANNING APPLICATION FOR THE ERECTION OF UP TO 108 DWELLINGS WITH ALL MATTERS RESERVED FOR FUTURE CONSIDERATION EXCEPT FOR MEANS OF ACCESS (FROM STRAW MILL HILL) TO BE DETERMINED AT THIS STAGE - TOVIL QUARRY SITE, STRAW MILL HILL, TOVIL, KENT</u></p> <p>Deferred for further discussion of potential highway improvements, specifically in Straw Mill Hill; and to circulate the viability report to Members.</p>	17 March adjourned to 24 March 2016



**REPORT SUMMARY**

<b>REFERENCE NO - 12/1544</b>		
<b>APPLICATION PROPOSAL</b> Retrospective application for the change of use of land to use as a residential caravan site for 2 Gypsy families with up to 4 caravans of which no more than 2 would be static caravans, including the laying of hard surfacing and the erection of 2 amenity buildings .		
<b>ADDRESS</b> Orchard Farm Nursery, Chartway Street, Sutton Valence, Maidstone, Kent, ME17 3JB		
<b>RECOMMENDATION - GRANT PLANNING PERMISSION subject to planning conditions</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The proposed development, subject to imposition of the recommended conditions will comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>  It is contrary to the views expressed by Broomfield and Kingswood Parish Council		
<b>WARD</b> Leeds	<b>PARISH/TOWN COUNCIL</b> Broomfield & Kingswood	<b>APPLICANT</b> Mrs M Ackleton <b>AGENT</b> Philip Brown Associates
<b>DECISION DUE DATE</b> 02/10/13	<b>PUBLICITY EXPIRY DATE</b> 02/10/13	<b>OFFICER SITE VISIT DATE</b> 26/02/16

**MAIN REPORT**

**1.0 SITE DESCRIPTION**

- 1.1 The application site is broadly rectangular in shape with existing Gypsy and Traveller development abutting the site to the north and east.
- 1.2 The site is occupied by two mobile homes and two amenity blocks. The site is divided into two by a close boarded fence running in a north to south direction. The easterly much larger area has a mobile home sited close to its northern boundary while in the south west corner an amenity building has been erected. The remainder of the site is surfaced and used for amenity space, parking and turning.
- 1.3 The western, much narrower plot has a mobile home at its southern end with an amenity building against the northern site boundary.
- 1.4 The western site boundary is defined by a dense hedgerow running down to Chartway Street. The southern site boundary abuts an open rectangular area which is the subject of a current planning application for the stationing of a mobile home, touring caravan, utility building and caravan submitted under application ref: 15/501168. To the south of

this is a further open area on which are sited a number of small polytunnels abutting a parking area. Fronting Chartway Street is a hedgerow interspersed with some trees.

- 1.5 Site access is gained via a controlled gated access onto Chartway Street.
- 1.6 In a wider context the site is located in open countryside not subject to any specific landscape designation.

## **2.0 PROPOSAL**

- 2.1 This is retrospective application and planning permission is sought to retain to two mobile home and two amenity blocks along with associated parking and turning area and fencing that has been erected. Consent is also sought to station two touring caravans.
- 2.2 Native species hedgerows will be planted along the southern and eastern site boundaries along with additional tree planting.
- 2.3 The pitches are occupied by members of the extended Ackleton Family.
- 2.4 Surface water is being disposed of via a soakaway while waste water is being dealt with by a package treatment plant

### **Response to request for clarification of gypsy status:**

- 2.5 Government guidance which came into force in August 2015 makes clear that persons claiming gypsy and traveller status in support of an application must provide evidence to show they intend to carry on a nomadic /traveller lifestyle. There are two occupied mobile homes on the site (A and B) and the following has been submitted for each mobile home.

#### **Mobile Home A:**

- 2.6 This is occupied by Mr and Mrs Beaney, both 24 years old, their daughter of 2 years. Mrs Beaney is pregnant with the baby expected in August 2016.
- 2.7 They are cousins to the existing family already living on the site where grandparents also live along with aunts and uncles.
- 2.8 Their nomadic lifestyle consists of travelling to find work which can be in many areas including the Isle of Wight, Norfolk, Cambridge, Birmingham and Wales. Absence from the site can be for weeks or months at a time.

#### **Mobile Home B:**

- 2.9 This is now only occupied by Mr Tommy Frankham (50 years old) as his wife is deceased.
- 2.11 He is a cousin to an existing family living on the site and is an uncle to their children.
- 2.12 His nomadic lifestyle consists of going from place to place to buy and sell horses at fairs and markets taking him away the site anytime between March and October for periods between 3 and 6 months.

### **3.0 RELEVANT PLANNING HISTORY**

- 3.1 To the north and east of the application site there are already existing lawful gypsy and traveller sites as follows:

MA/09/1697: Retrospective application for the change of use of land to residential for the stationing of 1 no. mobile home – APPROVED 2<sup>nd</sup> July 2010 personal permission granted for Miss Sharna Ackleton, her partner and any dependent children.

MA/11/1534: Change of use of land to use as a residential caravan site for 2 gypsy families involving the siting 4 caravans of which no more than 2 are to be static mobile homes; the erection of 2 amenity blocks; and the laying of hard standing and construction of a driveway.- APPROVED- 7<sup>th</sup> September 2011 allowing unrestricted permanent occupation of site by gypsies and travellers.

MA/12/0605: Change of use of land to use as residential caravan site for one gypsy family with two caravans, erection of an amenity building and laying of hardstanding – APPROVED- 2<sup>nd</sup> April 2012 allowing unrestricted permanent occupation of site by gypsies and travellers.

- 3.2 In addition on land immediately abutting the southern boundary of the application site planning permission is being sought under ref: MA/15/501168 for the change of use of land to use as a residential caravan site for one gypsy family with one mobile home, one touring caravan, utility building and hardstanding. This application is currently undetermined and is also an item for consideration on this agenda.

### **4.0 POLICIES AND OTHER CONSIDERATIONS**

- Development Plan 2000: ENV6, ENV28, T13
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, DM26
- Planning Policy for Traveller Sites (PPTS)

### **5.0 LOCAL REPRESENTATIONS**

- 5.1 4 objections have been received which are summarised as follows:
- Believe site lies within an area of ancient woodland and its protection is an overriding consideration.
  - There are already too many gypsy and travellers in the area while their sites are too close to one another. The net effect makes their integration into the local community problematic while being contrary to Government policy.
  - Site is being further subdivided without consent further eroding the character of the area.
  - Site access is poor and additional traffic causes harm to the free flow of traffic and highway safety.
- 5.2 **Cross Drive Residents Association:** Objects on the following grounds:
- There are already too many caravans in the area while there is evidence that caravans on the adjoining Finches site are being occupied on a long term basis contrary to conditions that were imposed.



- The number of gypsy and traveller sites is having a detrimental impact on the rural character of the area and impact on services.

## 6.0 CONSULTATION RESPONSES

### 6.1 **Broomfield and Kingswood Parish Council:** Wish to see the application refused for the following reasons:

- Has a considerable visual impact from the road and there is already concern regarding the consolidation effect of numerous traveller/gypsy sites already in close proximity along Chartway Street which in turn impacts immensely on the wider area.
- Expansion of this traveller site will harm rural appearance of the area and should be taken into consideration alongside of another planning applications currently being processed for expansion of a caravan park in the neighbouring property.
- With the existing level of provision of traveller sites already within this parish there is no need for any addition to the existing site; MBC should strictly limit traveller site expansion and respect the scale of existing local sites so that they do not dominate the nearest settled communities of Kingswood and East Sutton.
- This application is not an effective use of land that had been a previously well managed and widely used nursery, which has been allowed to become derelict.
- The current traveller site at this location has been enclosed effectively and deliberately isolating itself from the rest of the community.
- Local Parishes should not suffer the consequences of the lack of provision for travelers and gypsies due to the absence of any Local Planning Authority Policy to supply alternate deliverable sites.

### 6.2 **East Sutton Parish Council:**

Contravenes Government advice as follows:

- A Local Planning Authority should identify a supply of specific deliverable sites. This site has not been identified for gypsy and traveller development.
- The number of pitches or plots should relate to site circumstances and the surrounding population's size and density – contend that Chartway Street has become a sprawl of traveller and caravan sites and looks a mess.
- When assessing the suitability of sites in rural areas the scale of such sites should not dominate the nearest settled community –contend the number of traveller sites have resulted in this.
- Regard must be had of the availability of alternative accommodation for the applicants – contend that no mention of a particular families housing needs or personal circumstances have been provided and in the absence of this it is possible the applicant's are already currently housed elsewhere.
- Will result in the loss of a long standing rural business.

### 6.3 **Kent Highways:** No objection as the proposal is not likely to lead to a significant increase in traffic and is served from an existing access where visibility splays are satisfactory and there is no history of injury crashes.

### 6.4 **KCC Ecology:**

- Does not appear to be much potential for ecological impacts. The most interest is the hedgerow/treeline along the western boundary.

- The proposed layout provides an opportunity to ensure boundaries of the site are retained and enhanced for biodiversity by maintaining the hedgerow and hedge-bottom appropriately. Advise the hedgerow is cut only every 2-3 years, any gaps are filled with native species and that an unmown grass margin of 1m from the hedge is retained to provide biodiversity opportunities.
- Any additional hedge creation must use native species, preferably a mix of different species rather than just one.

## **7.0 APPRAISAL:**

- 7.1 Firstly it is acknowledged that retrospective planning permission is being sought here. Members are reminded of the requirement to consider the application on its planning merits in the same manner as an application submitted before development commenced.
- 7.2 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 7.3 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) sustainability (e) impact on general and residential amenity (f) highway safety and (g) landscape, wildlife and habitat considerations.

## **PRINCIPLE OF DEVELOPMENT**

- 7.4 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 7.5 Policy ENV28 relating to development in the countryside states amongst other things that;
- “Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.”*
- 7.6 Policy ENV28 sets out the type of development that can be permitted in the countryside and this does not include gypsy and traveller development. However a key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.
- 7.7 Though work on the emerging local plan is progressing there is currently no adopted policy relating to the provision of gypsy sites. Members are reminded that Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans and in response Maidstone Borough Council, in partnership with Sevenoaks District Council instructed Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). Whilst this work is set to be revisited in light of the changes to the PPTS, at this time it has not commenced and this information provides the most up to date information on need.
- 7.8 The figures on need that are provided later in this report were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target and were included in the Regulation 19 consultation version of the Local Plan. The current GTAA provides the best evidence

of need available at this point in time and planning decisions need to be based on information that is available.

- 7.9 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have the duty to provide for under the Housing Act (2004). Draft Policy DM16 of the Regulation 19 version of the Draft Local Plan, by implication, accepts this type of accommodation can be provided in the countryside provided certain criterion is met. The Draft Plan also states that the Borough's need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites. The timetable for adoption is currently for the latter half of 2017.
- 7.10 Issues of need are dealt with below but in terms of broad principles Development Plan Policy and Central Government Guidance allows for gypsy sites to be located in the countryside as an exception to the general development restraint policies.

### **Need for Gypsy sites**

- 7.11 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.
- 7.12 As stated above, the projection accommodation requirement is as follows:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches

Total: Oct 2011 – March 2031 - 187 pitches

- 7.13 Taking into account this time period, since 1<sup>st</sup> October 2011 the following permissions for pitches have been granted (net):
- 79 Permanent non-personal permissions
  - 10 Permanent personal permissions
  - 3 Temporary non-personal permissions
  - 33 Temporary personal permissions

- 7.14 Therefore a net total of 89 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such a shortfall of 17 pitches remains outstanding to meet the obligation to provide 105 permanent pitches for the period October 2011 to March 2016.

- 7.15 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This explains why the need figure appears so high in the first 5 years.

### **Gypsy status**

- 7.16 Since this application was submitted, the Government has revised the national planning guidance for Gypsy and Traveller development contained in 'Planning Policy for Traveller Sites' (PPTS). The revised guidance came into force on 31<sup>st</sup> August 2015, with the planning definition of 'Gypsies and Travellers' being amended to

exclude those who have ceased to travel permanently. The revised definition is as follows;

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”*

- 7.17 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants’, health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 7.18 In response to the above the applicant has provided the following information:
- The pitches are occupied by members of the extended Ackleton Family who are acknowledged to be Gypsies and Travellers.
  - One mobile home is occupied by Mr and Mrs Beaney (who is pregnant and expecting a baby in August 2016) and their daughter of 2 years.
  - They are cousins to the existing family already living on the site where grandparents also live along with aunts and uncles.
  - Their nomadic lifestyle consists of travelling to find work which can be in many areas including the Isle of Wight, Norfolk, Cambridge, Birmingham and Wales. Absence from the site can be for weeks or months at a time.
  - The other mobile home is now solely occupied by Mr Tommy Frankham (50 years of age) as his wife is deceased.
  - He is cousin to an existing family living on the site and an uncle to their children.
  - His nomadic lifestyle consists of going from place to place to buy and sell horses at fairs and markets taking him away the site anytime between March and October for periods between 3 and 6 months.
- 7.19 In connection with other Gypsy and Traveller applications the Council has been challenged on its alleged failure to properly assess whether occupants of Gypsies and Travellers sites qualify as Gypsies and Travellers. Given the current occupants are related to existing Gypsies and Traveller families in close proximity it is considered that their gypsy and traveller status is shown due to these family links.
- 7.20 Regarding whether the occupants have lived a nomadic lifestyle and intend to continue living in such a manner, though the submitted information lacks detail it must be taken into account that gypsy and travellers by their very nature, live a less regulated lifestyle compared to many in the settled community. Given the family circumstances of Mr and Mrs Beaney, it is considered highly likely that to provide a stable base of for the children, occupation of the mobile home would be permanent for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties in providing a stable base for the children. In addition there is no reason to assume the carer/s would not resume their nomadic lifestyle once the children were older. Regarding Mr Frankham, given his single status, it is considered highly likely he will continue his nomadic lifestyle.
- 7.21 In assessing this application further information on the work history and location of the times, dates and occupants would have been useful however it is reiterated that by their very nature Gypsy and Traveller lifestyles make monitoring such activities problematic in planning terms. In the absence of clear substantiated evidence to refute

the occupant's claims both of an existing nomadic lifestyle and intention to continue this lifestyle, the submitted information must be taken at face value. In addition, even if it is alleged the occupants have housing accommodation elsewhere this does not preclude them from resuming a Gypsy and Traveller lifestyle nor this this does this affect their ongoing Gypsy and Travellers status.

- 7.22 It is concluded that the applicants are gypsies and travellers that have led and will continue to lead a nomadic lifestyle and therefore continue to fall within the revised definition of gypsies set out above.

### **Visual Impact**

- 7.23 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside, where sites are in rural areas they not should dominate the nearest settled community and shall not place undue pressure on local infrastructure. No specific reference is made to landscape impact however, this is addressed in the NPPF and policy ENV28 of the adopted local plan.
- 7.24 Policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes it clear that exceptions will be permitted if justified by other polices contained in the plan.
- 7.25 It is generally accepted that mobile homes can comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in terms of visual impact. Consequently where they are permitted this is normally on the basis of being screened by permanent features such as hedgerows, tree belts, buildings or land contours.
- 7.26 In this case, the application site is abuts existing lawful gypsy and traveller development to the north and east while running along the western site boundary is a high dense tree screen running right down to Chartway Street. Abutting the site to the south is an open area on which are sited a number of polytunnels to the south of which is an area of parking. On the Chartway Street frontage there is an existing hedgerow interspersed with trees. As such the mobile homes and amenity buildings which have been erected (and which are all low profile) are sited within an inward looking and enclosed space not easily visible from outside the site though there are glimpsed views into the wider site through the site access.
- 7.27 Concerns have been raised that retention of the mobile homes and amenity blocks will result in ongoing harm to the rural character of the locality and consolidate the wider site as a focus of gypsy and traveller development. For the reasons set out above it is considered that the continued presence of the caravans and amenity blocks have not resulted in making the wider grouping of gypsy and traveller development appear more intrusive or over dominant. It is considered that the caravans and buildings do not cause detriment to the character and openness of the countryside.
- 7.28 Concerns have been raised relating to the cumulative impact of gypsy and traveller development in the locality and the dominating impact this has on the nearest settled community. In purely visual terms it is reiterated the inward looking and well screened nature of the site results in the development having little impact such that visual harm based on cumulative visual impact do not apply here.

### **Sustainability**

- 7.29 Gypsy and Traveller sites are often located in the countryside and the current application site follows this pattern. The current site is located within 1.5 kilometres of Kingswood and about 2 kilometres from Sutton Vallence allowing access to schools, medical provision and shopping facilities. It is not considered that the site is sufficiently remote from services to justify refusal on sustainability grounds particularly having regard to the existence of adjoining lawful gypsy and traveller sites.

#### **General and residential amenity**

- 7.30 The application site is well screened and that the nearest house is located over 100 metres to the west. For these reasons it is not considered retention of the mobile homes and amenity blocks will have any ongoing significant detrimental impact on the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 7.31 Of wider concern is the view that the local community is being overly dominated by gypsy and traveller development. However given the small number of persons being accommodated it is considered it would be problematic to try and make such a case in the circumstances of this application.

#### **Highway and safety considerations**

- 7.32 The access onto Chartway Street has satisfactory visibility splays and the development will not generate any significant traffic. In these circumstances and in the absence of objection from Kent Highways no objection is identified to the development on these grounds.

#### **Landscape, wildlife and habitat considerations**

- 7.33 Given the retrospective nature of the application and that the site is now either covered by buildings, laid out as hardstanding or grassed, it clearly has little wildlife and habitat potential in its current form. Regarding what could be done to improve the situation the intention is to plant the southern site boundary with a mix of native species hedging which has not been done and can be conditioned. This will secure a reasonable level of wildlife habitat.
- 7.34 Concern has been raised that the application site falls within an area of ancient woodland. The Council's records do not show the site on ancient woodland and there is no other evidence available to show that the site has this designation.

### **8.0 CONCLUSIONS:**

- 8.1 The following conclusions have been reached
- As the occupants of the mobile homes are related to Gypsy and Travellers on adjoining sites and have confirmed their intention to maintain a nomadic lifestyle (childcare responsibilities permitting) it is considered they continue to fall within the definition of Gypsies and Travellers contained within the revised Government Guidance.
  - The development is acceptable in its visual impact and has not materially contributed to dominating the local settled community either in its cumulative impact with other development or impact on local services.
  - Has not resulted in any material loss of amenity to dwellings in the locality.
  - Is acceptable in sustainability, landscape wildlife and habitat terms.
  - Is acceptable in its highway impact.

8.2 As such, given the shortfall of permanent pitches in meeting the provisions of the GTAA and in the absence of overriding objection on other grounds, granting retrospective and permanent planning permission here will make a valuable contribution to meeting this unmet demand while placing the Council in a better position to resist similar development on more sensitive sites in the future. As such it is recommended that planning permission be granted for this retrospective development.

**9.0 RECOMMENDATION – GRANT PLANNING PERMISSION subject to the following planning conditions**

(1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

(2) No more than two caravan and two tourers, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

(3) If the use hereby permitted ceases, all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings, and utility rooms shall be removed within 3 months of cessation;

Reason: To safeguard the character and appearance of the countryside.

(4) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

(5) Within three months of the date of this decision details of landscaping scheme using indigenous species and including the retention and enhancement of the existing planting along site boundaries shall be submitted for approval in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity

(6) All planting contained within the approved landscaping scheme shall be carried out in the first planting season following approval of the landscaping scheme. Any trees or plants which within a period of five years 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 for a variation.

Reason: To safeguard the character and appearance of the countryside.

- (7) No commercial or business activities shall take place on the land, including the storage of vehicles or materials and livery use;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (8) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

### **INFORMATIVES**

- (1) Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

- (2) Caravan site licence:

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 Enforcement Team on 01622 602202 in respect of a licence.

- (3) General waste provisions:

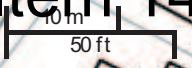
Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

Clearance and burning of existing wood or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.





## REPORT SUMMARY

<b>REFERENCE NO - 14/505125/FULL</b>		
<b>APPLICATION PROPOSAL</b> Proposed new detached building to accommodate three air condition units.		
<b>ADDRESS</b> Lenham Ironmongers Ltd 8 Faversham Road Lenham Kent ME17 2PN		
<b>RECOMMENDATION – Approval subject to conditions</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  Proposed development to satisfy noise issues related to the AC unit		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Lenham Parish Council has objected to the proposal		
<b>WARD</b> Harrietsham And Lenham Ward	<b>PARISH/TOWN COUNCIL</b> Lenham	<b>APPLICANT</b> Mr Gary Taylor <b>AGENT</b> Mrs Rebecca Blundell
<b>DECISION DUE DATE</b> 24/12/14	<b>PUBLICITY EXPIRY DATE</b> 24/12/14	<b>OFFICER SITE VISIT DATE</b> 21/11/2014
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>  14/502375/SUB – Condition 2 Archeological works – Granted  14/503491/SUB- Condition 3 foundation Design – Granted  13/1570- Demolition of existing building new Class A1 retail and B1 office use- Granted – 10/4/2014  13/1571- Conservation area consent for the demolition of building- Granted – 10/9/2013		

### 1.0 DESCRIPTION OF SITE

- 1.1 The application site comprises a two storey building to the front with a large single storey addition to the rear. The two storey part is of red brick under a tiled roof with modern windows. There is an existing shop front on the south side from the previous retail use, which features stone cladding. The rear single storey part is of different design and has white painted breeze block walls with a corrugated iron roof.
- 1.2 The main Co-operative building is at ground floor level primarily for A1 retail of (260m<sup>2</sup>) with an element of B1 offices (155m<sup>2</sup>) of the first floor. The site is on the east

side of Faversham Road just north of the village Square. There are accesses on the south and a north side of the building and to the rear is a detached single storey building, which is used as a dance studio. The Conservation Area boundary runs along the south edge of the front building and then heads north over part of the rear of the building. There are Grade II\* and II listed buildings to the south which front 'The Square' and there is an Ancient Scheduled Monument on the opposite side of the road (18<sup>th</sup> century 'lock up) Residential properties are located to the south, west, east and north, and to north comprise sheltered housing for over 65 year olds. The site also falls within a Special Landscape Area.

## **2.0 PROPOSAL**

- 2.1 Planning permission is sought for a new detached building to accommodate three air condition units. The proposed detached building would be brick built with the following dimensions:

Length- 5m  
Depth- 2.8m  
Height 2.042m

- 2.2 The AC units would be fully enclosed inside a box located towards side of the building. All the colours and materials would be matching in accordance with the proposed Co-operative stores. The designed plant area would be enclosed with 1800mm high timber fence.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF):  
National Planning Practice Guidance (NPPG):  
Maidstone Borough-Wide Local Plan 2000: ENV34,  
MBC 20016 Regulation 19 Policies

## **4.0 LOCAL REPRESENTATIONS**

- 4.1 The Old Parish Hall – Neighbouring occupiers objects to the proposal on the following grounds:
- Noise levels of these air conditioning units will be disruptive, as they get old.
  - The noise of the air conditioning units would be unbearable to their bedroom window as their window is singled glazed.
  - The noise would affect the sleep through the night. This would be intrusive and restrictive.
- 4.2 8, 9 and 10 The Square – Occupier objects to the proposal on the following grounds:
- Mechanical plant would be against their garden wall within 10m of their bedroom window.
  - Neighbours cottage is much closer at 6m away.
  - The noise from the air conditioning units would affect the houses due to the quite village location.
  - Noise from the acoustic test carried by KR Associates does not seem to provide accurate readings.
  - The four machines run all day and will continue throughout the night. Each unit would create high levels of noise equivalent to 65mph wind speed.

- The fans will cause distinguishable, noise with a continuous hum that will increase with wear.
- Amenity of the gardens and houses belonging to the neighbours would be ruined.
- The design and access statement gives no explanation why the plant is required.
- The noise has been directed towards the properties with fan extraction units places towards the rear part of the properties
- The flats have sealed double glazed windows to block the sound we don't.

4.3 Butchers Cottage – Neighbouring occupier objects to the proposal on the following grounds:

- Proposed plant would be 3m from my back garden and 4m from my house.
- The noise would be continuous and would not Butchers Cottage garden, kitchen and lounge. The noise would be distinguishable every day for 24 hours.
- The readings undertaken by the applicant's noise report does not provide accurate information.
- The units would have serious ability to lice in their home and garden.
- Acoustic information looked by a professional, they states the measured noise level near the proposed source does not give accurate readings.
- The report by KT associates fails to determine these objectives.

4.4 Wickham Place, The Square – Neighbouring occupier objects to the proposal on the following grounds:

- The regular noise from the air conditioning units will affect their daily life.
- The natural habit of the indigenous animals may be damaged by these air units.
- New drawings submitted however no new acoustic sound test properly carried out.

4.5 Occupier Paul King makes following comments in response to the environmental health officers.

- The acoustic test carried out by the applicant does not relate to the existing site.
- The proposed box acts as a tunnel directing the sound towards the neighbouring.
- The plant produces 62/5dB and 5dB giving rise to the complaint.
- Objects to the proposal because the data is exactly the same as the previous issue.

## 5.0 CONSULTATION RESPONSES

Lenham Council – Object to the proposal on the following grounds:

- Noise pollution concern to residents
- The noise information on units does not provide local residents with accurate recordings.
- There is false impression on the potential impact on the properties

MBC Environmental health services- have no objections to the proposed units subject to monitoring condition.

## **6.0 APPRAISAL-**

### **Principle of Development**

The main issues to consider are:

- The visual impact to the surrounding area.
- Noise disturbance generated from the proposed air condition units on the amenities of the nearby residential properties.
- Impact on the conservation area and host building
- Loss of parking and Highway

### **Impact upon the property and surrounding area**

- 6.1 The application has been modified since submitted in order to minimise noise impact on the adjoining neighbouring occupiers. The applicant has now proposed a new building to accommodate the proposed AC units.
- 6.2 The positions of the AC units have now changed. The proposed external 3 new external A/C units would be placed internally within the proposed detached building with louvres fitted externally to allow efficient air flow.
- 6.3 The changes and position of the A/C units would therefore improve the noise reduction. This is also reflected within the new acoustic report submitted by the applicant.
- 6.4 The proposed building would be modest in scale and size and would not overwhelm the existing surrounding area. It would be well hidden from the existing street scene. The proposed building would have a floor area of 14m<sup>2</sup> and a height of 2.042m.

### **Noise impact of the proposal on the amenities of the nearby residential properties**

- 6.5 The proposed A/C housing building would be approximately 7m away from the nearest residential dwelling.
- 6.6 The objections raised by neighbouring occupiers and parish relate to noise that the development would generate however the amended plans and noise report provided by the applicant over comes these issues. The acoustic test report ensures that the noise from the A/C units would remain within the building and the additional unit would be enclosed.
- 6.7 The local residents have hired an acoustic consultant who has expressed concern about the applicant's noise report, however MBC Environmental health officer has considered and assessed the noise report submitted by the applicant noise consultant and is satisfied that the anticipated noise rating levels would not be harmful to the amenities of adjoining properties however to ensure that the proposed development noise levels are met a noise monitoring condition is recommended.

### **Impact on the conservation area and host building**

- 6.8 The siting and the position of the enclosed building would have no impact upon the conservation area and the host building due to its modest size and its location A/C housing and would not be seen from the main street scene.

#### **Loss of parking and Highway**

- 6.10 The proposed A/C housing building would result in loss of a car park space. The site currently provides some parking and the site is close to the village centre and there are large number of public car park nearby therefore loss of one car park space would not be harmful to the existing parking arrangements or be detrimental to the highway safety or amenities of the local residents.

#### **7.0 The conclusion**

- 7.01 The concerns of the neighbours and issues related to the A/C units have been dealt with in the main body of this report. It is therefore considered that overall the proposal is acceptable with regard to the relevant provisions of the National Planning Policy Framework, and all other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis

**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) No development shall take place until samples of the materials and finishes to be used in the construction of the external walls and roof of the A/C housing building hereby permitted have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development.

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

Environmental Acoustic Test report KR04737 – February 2016

Proposed Floor and elevation plans – Drawing no DN16629 -3

Proposed Elevation Plans - DN16629-1

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers

- 4) Within three months of commencement of operations a noise report shall be submitted to demonstrate,

i-That the noise generated at the outside any sensitive property shall not exceed Noise Rating Curve NR35 as defined by BS8233: 1999 Sound Insulation and Noise Reduction for Building Code of

Practice and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006.

ii-The rating level of noise emitted from the proposed plant and equipment to be installed on the site (determined using the guidance of BS 4142 : 2014 Rating for industrial noise affecting mixed residential and Industrial areas) shall be at least 0dB below the existing measured ambient noise level LA90, T for any relevant period when the plant will be operating.

Reason: To prevent harm to the residential amenity of neighbouring occupiers

- 5) Within 3 months of the proposal being operational a further noise assessment shall be carried out, should the study reveals noise levels above 0db then mitigation measures shall be introduced to reduce the nose level to acceptable level. The mitigation measures shall be carried out within 3 months of the date of the approval by the Local Planning Authority.

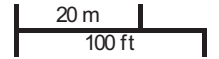
Reason: To prevent harm to the residential amenity of neighbouring occupiers

Case Officer: Ravi Rehal

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

# Agenda Item 15





## REPORT SUMMARY

<b>REFERENCE NO - 15/501168/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of land to use as a residential caravan site for one gypsy family with one mobile home, one touring caravan, utility building and hardstanding.		
<b>ADDRESS</b> Orchard Farm Nursery, Chartway Street, Sutton Valence, Kent, ME17 3JB		
<b>RECOMMENDATION – GRANT PLANNING PERMISSION subject to conditions</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  The proposed development, subject to imposition of the recommended conditions will comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> It is contrary to the views expressed by Broomfield and Kingswood Parish Council		
<b>WARD</b> Leeds	<b>PARISH/TOWN COUNCIL</b> Broomfield & Kingswood	<b>APPLICANT</b> Ms Teony Ackleton <b>AGENT</b> WS Planning And Architecture
<b>DECISION DUE DATE</b> 06/04/15	<b>PUBLICITY EXPIRY DATE</b> 06/04/15	<b>OFFICER SITE VISIT DATE</b> 26/02/16

### MAIN REPORT

#### 1.0 SITE DESCRIPTION

- 1.1 The application site is rectangular in shape and currently open with existing Gypsy and Traveller development abutting the site to the north and east.
- 1.2 The western site boundary is defined by a dense hedgerow running down to Chartway Street while to the south are number of small polytunnels abutting a parking area. Fronting Chartway Street is a hedgerow interspersed with some trees.
- 1.3 Site access is gained via a controlled gated access onto Chartway Street. In a wider context the site is located in open countryside not subject to any specific landscape designation.

#### 2.0 PROPOSAL

- 2.1 Planning permission is sought to change the use of the land to a gypsy caravan site for one gypsy family on which one mobile home and one touring caravan will be stationed along with provision of a utility building and areas of hardstanding. The proposed site layout shows the mobile home stationed centrally on site but close to the northern site boundary. The utility building comprises a toilet, utility area and an floor space set aside as a day room. The building, which will be clad in timber boarding and have a pitched roof has a footprint of 9.9 x 4.5 metres, an eaves height of 2.8 metres and a

ridge height of just under 4 metres. It is intended to provide additional planting on the northern site boundary while existing hedgerows on the south and west site boundaries are shown to be retained.

- 2.2 Surface water is being disposed of via a soakaway while waste water is to be dealt with via a cess pit.
- 2.3 The mobile home occupants will be Ms Teony Ackleton and Thomas Dawns who intend to get married and therefore need their own pitch. Ms Ackleton wants to be at Orchard Farm as this will enable her to be with her relatives. Ms Ackleton travels to horse fairs to sell doors mats while Mr Dawns buy and sell horses at horse fairs when he is not undertaking landscaping work.

**Response to request for clarification of Gypsy status:**

- 2.5 Government guidance which came into force in August 2015 makes clear that persons claiming Gypsy and Traveller status in support of an application must provide evidence to show they intend to carry on a nomadic /traveller lifestyle.
- 2.6 In response to this the following additional information has been submitted.
- 2.7 Both Ms Ackleton and Mr Downs currently lead a nomadic lifestyle. They are getting married and want a permanent base for when they come back from being away at fairs. Ms Ackleton already has family in existing mobile homes on nearby adjoining sites including her grandparents, sister, brother and cousins. They intend to start a family where Ms Ackleton will become more settled though her future husband will continue to travel to find work.

**3.0 RELEVANT PLANNING HISTORY**

- 3.1 To the north and east of the application site there are already existing lawful Gypsy and Traveller sites as follows:

MA/09/1697: Retrospective application for the change of use of land to residential for the stationing of 1 no. mobile home – APPROVED 2<sup>nd</sup> July 2010 personal permission granted for Miss Sharna Ackleton, her partner and any dependent children.

MA/11/1534: Change of use of land to use as a residential caravan site for 2 gypsy families involving the siting 4 caravans of which no more than 2 are to be static mobile homes; the erection of 2 amenity blocks; and the laying of hard standing and construction of a driveway.- APPROVED- 7<sup>th</sup> September 2011 allowing unrestricted permanent occupation of site by gypsies and travellers.

MA/12/0605: Change of use of land to use as residential caravan site for one gypsy family with two caravans, erection of an amenity building and laying of hardstanding – APPROVED- 2<sup>nd</sup> April 2012 allowing unrestricted permanent occupation of site by gypsies and travellers.

- 3.2 On land immediately abutting the northern boundary of the application site retrospective planning permission is being sought under ref: MA/12/1544 for the change of use of land to use as a residential caravan site for 2 Gypsy families with up to 4 caravans of which no more than 2 would be static caravans, including the laying of hard surfacing and the erection of 2 amenity buildings. This application is currently undetermined and is also an item for consideration on this agenda.

#### **4.0 POLICIES AND OTHER CONSIDERATIONS**

- Development Plan 2000: ENV6, ENV28, T13
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, DM26
- Planning Policy for Traveller Sites (PPTS) revised August 2016

#### **5.0 LOCAL REPRESENTATIONS**

5.1 13 Neighbours notified – no representation received.

#### **6.0 CONSULTATION RESPONSES**

6.1 **Broomfield and Kingswood Parish Council:** Wish to see the application refused for the following reasons:

- Continued expansion of this site is creating a merging between neighbouring traveller sites in Cross Drive.
- The site is becoming oversized contrary to government recommendations.
- The parish already has three considerable sized traveller sites, as well as several smaller sites in the immediate locality and feel this expansion is contrary to the policy of “working collaboratively to develop fair and effective strategies to meet needs”.
- Approval of this expansion will “increase tensions between settled and traveller communities”.
- The parish is at risk of being overwhelmed by traveller sites if continued expansion of this or other sites continue.

6.2 **Kent Highways:** No objection.

6.3 **EHO:** There are several Gypsy and Traveller applications within the vicinity of this site which were granted. Sewage will be dealt with by means of a cess pit, but no further details have been provided. Further details regarding potable water and sewage disposal should be required as a condition of any permission granted. The site should only be used for residential only and maintained in good order. It should not be used for business purposes, it should also not be used for the use and/or storage of commercial vehicles. Any tourers on site should not be used for habitation. The site should not be occupied before all the conditions of the Caravan Sites Licence are met.

#### **7.0 APPRAISAL:**

7.1 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) sustainability (e) impact on general and residential amenity (f) highway safety and (g) landscape, wildlife and habitat considerations.

##### **Principle of Development**

7.2 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.

7.3 Policy ENV28 relating to development in the countryside states ,amongst other things, that;

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

- 7.4 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes Gypsy and Traveller development.
- 7.5 A key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.
- 7.6 Though work on the emerging local plan is progressing there is currently no adopted policy relating to the provision of gypsy sites. Members are reminded that Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council instructed Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). Whilst this work is set to be revisited in light of the changes to the PPTS, at this time it has not commenced and the information in this report at paragraph 7.11 remains the current need figure.
- 7.7 The need figures in the GTAA were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target and are included in the consultation version of the Local Plan. The current GTAA provides the best evidence of need that is available at this point in time and decisions need to be based on this available evidence.
- 7.8 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Draft Policy DM16 of the Regulation 19 version of the Draft Local Plan, by implication, accepts this type of accommodation can be provided in the countryside provided certain criterion is met. The Draft Plan also states that the Borough’s need for Gypsy and Traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites. The timetable for adoption is currently for the latter half of 2017.
- 7.9 Issues of need are dealt with below but in terms of broad principles Development Plan Policy and Central Government Guidance allows for gypsy sites to be located in the countryside as an exception to the general development restraint policies.

#### **Need for Gypsy sites**

- 7.10 The Planning Policy for Traveller Sites’ (PPTS) gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.
- 7.11 The projected accommodation requirement as concluded by the GTAA is as follows:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

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

- 79 Permanent non-personal permissions
- 10 Permanent personal permissions
- 3 Temporary non-personal permissions
- 33 Temporary personal permissions

7.13 Therefore a net total of 89 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such a shortfall of 17 pitches remains outstanding to meet the obligation to provide 105 permanent pitches for the period October 2011 to March 2016.

7.14 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This explains why the need figure appears so high in the first 5 years.

#### **Gypsy status**

7.15 Since this application was submitted, the Government has revised the national planning guidance for Gypsy and Traveller development contained in 'Planning Policy for Traveller Sites' (PPTS). The revised guidance came into force on 31<sup>st</sup> August 2015, with the planning definition of 'gypsies & travellers' amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

*"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*

7.16 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

7.17 In response to the above the applicant has advised the following:

- Both Ms Ackleton and Mr Downs currently lead a nomadic lifestyle.
- They are getting married and want a permanent base for when they come back from being away at fairs.
- Ms Ackleton already has family in existing mobile homes on nearby adjoining sites including her grandparents, sister, brother and cousins.
- They intend to start a family where Ms Ackleton will become more settled though her future husband will continue to travel to find work.

7.18 In connection with other Gypsy and Traveller applications the Council has been challenged on its alleged failure to properly assess whether occupants of Gypsy and Traveller sites qualify as Gypsies and Travellers. As one of the proposed occupants is

related to existing gypsies and traveller families in very close proximity it is considered their Gypsy and Traveller status is shown due to these family links.

- 7.19 Regarding whether the proposed occupants have lived a nomadic lifestyle and intend to continue living in such a manner; though the submitted information lacks detail it must be taken into account that Gypsy and Travellers by their very nature, live a less regulated lifestyle compared to many in the settled community. Given the intended family circumstances of the occupants of the mobile home, it is considered highly likely that to provide a stable base of for the children, occupation of the mobile home would be permanent for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties in providing a stable base for the children. In addition there is no reason to assume the carer/s would not resume their nomadic lifestyle once the children were older.
- 7.20 In assessing this application further information on the work history and location of the times, dates and occupants would have been useful however it is reiterated that by their very nature Gypsy and Traveller lifestyles make monitoring such activities problematic in planning terms. In the absence of clear substantiated evidence to refute the occupant's claims both of an existing nomadic lifestyle and intention to continue this lifestyle, the submitted information must be taken at face value.
- 7.21 As such it is considered the applicants are Gypsies and Travellers that have led and will continue to lead a nomadic lifestyle and therefore continue to fall within the revised definition of gypsies set out above.

### **Visual Impact**

- 7.22 Guidance in the Planning Policy for Traveller Sites (PPTS) states that Local Planning Authorities should strictly limit new traveller development in the countryside, where sites are in rural areas they should not dominate the nearest settled community and should not place undue pressure on local infrastructure. Whilst no specific reference is made to landscape impact this is addressed in the NPPF and policy ENV28 of the adopted local plan.
- 7.23 Policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes it clear that exceptions will be permitted if justified by other policies contained in the plan.
- 7.24 It is generally accepted that mobile homes can comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in terms of visual impact. Consequently where they are permitted this is normally on the basis of being screened by permanent features such as hedgerows, tree belts, buildings or land contours.
- 7.25 In this case, the application site abuts existing lawful Gypsy and Traveller development to the east while running along the western site boundary is a high dense tree screen running right down to Chartway Street. Abutting the site to the south is an open area on which are sited a number of polytunnels to the south of which is an area of parking. On the Chartway Street frontage there is an existing hedgerow interspersed with trees. As such the caravans and amenity building will be sited within an inward looking and enclosed space not easily visible from outside the site. There may be glimpsed views

but subject to the southern site boundary being supplemented by native species planting visual impact will be minimised.

- 7.26 Concerns have been raised that the mobile homes and amenity block will result in harm to the rural character of the locality and consolidate the wider site as a focus of Gypsy and Traveller development. Concerns have been raised relating to the cumulative impact of gypsy and traveller development in the locality and the dominating impact this has on the nearest settled community.
- 7.27 For the reasons set out above including the relatively well screened nature of the site it is considered that the proposed caravans and amenity block will not result in a cumulative visual impact. The proposal will not appear over dominant to the detriment of the character and openness of the countryside.

### **Sustainability**

- 7.28 Gypsy and Traveller sites are often located in the countryside and the application site follows this pattern. The site is located within 1.5 kilometres of Kingswood and about 2 kilometres from Sutton Vallence allowing access schools, medical provision and shopping facilities. As such it is not considered the site is sufficiently remote from services to justify refusal on sustainability grounds particularly having regard to the existence of adjoining lawful gypsy and traveller sites.

### **General and Residential Amenity**

- 7.29 The site is relatively well screened and that the nearest house is located over 100 metres to the west. In these circumstances it is not considered that the proposed caravans and amenity block will have any significant detrimental impact on the residential amenity of any neighbouring houses including in terms of loss of light, outlook, privacy, general noise and disturbance.
- 7.30 Of wider concern is the view that the local community is being overly dominated by Gypsy and Traveller development. However given the small number of persons being accommodated it is considered it would be problematic to seek to make such a case in the circumstances of this application.

### **Highway and Safety Considerations**

- 7.31 The access onto Chartway Street has satisfactory visibility splays. With the nature of the development it will not generate significant traffic movements. In these circumstances and in the absence of objection from Kent Highways no objection is identified to the development on these grounds.

### **Landscape, Wildlife and Habitat Considerations**

- 7.32 The site is open and undeveloped and grassed. The site has little wildlife and habitat potential in its current form. The current proposal includes additional planting on the northern site boundary and the retention of an existing hedgerow on the southern site boundary. It is considered that the use of native species for new planting and supplement planting to the southern boundary hedgerow will secure a reasonable wildlife habitat while ensuring that the site is appropriately screened.

## 8.0 CONCLUSIONS:

8.1 The following conclusions are reached:

- As one of the intended occupants of the mobile home is related to Gypsy and Travellers on adjoining sites and have confirmed their intention to maintain a nomadic lifestyle the occupants fall within the definition of Gypsies and Travellers contained within the revised Government Guidance.
- The development is acceptable in its visual impact and does not dominate the local settled community either in its cumulative impact with other development or impact on local services.
- The use has not resulted in any material loss of amenity to dwellings in the locality.
- The use is acceptable in sustainability, landscape wildlife and habitat terms.
- The use is acceptable in its highway impact.

8.2 As such, given the shortfall of permanent pitches in meeting the need shown in the GTAA; in the absence of overriding objection on other grounds, granting permanent planning permission here will make a valuable contribution to meeting unmet demand while placing the Council in a better position to resist similar development on more sensitive sites in the future. As such it is recommended that planning permission be granted for this development.

## 9.0 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) The site shall not be used as a caravan site by any persons other than Gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

(3) If the use hereby permitted ceases, all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings, and utility rooms shall be removed within 3 months of cessation;

Reason: To safeguard the character and appearance of the countryside.

(4) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

(5) Prior to first occupation of the site details of landscaping scheme using indigenous species and including the retention and enhancement of the existing planting along the



site boundaries shall be submitted for approval in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (6) All planting contained within the approved landscaping scheme shall be carried out in the first planting season following occupation of the development hereby approved. Any trees or plants which within a period of five years 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 for a variation.

Reason: To safeguard the character and appearance of the countryside.

- (7) No commercial or business activities shall take place on the land, including the storage of vehicles or materials and livery use;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (8) Prior to commencement of the development hereby approved details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be in place before first occupation of the development and retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (9) The development hereby approved shall be carried out in accordance with the following approved plans being plans and drawing received on the 23rd August 2012, 8th February 2013 and 9th February 2015.

Reason: In the interests of amenity.

#### INFORMATIVES

- (1) Highways:

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- (2) Foul sewage:

Details submitted to discharge the relevant planning condition should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the

discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

(3) Caravan site licence:

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 Enforcement Team on 01622 602202 in respect of a licence.

(4) General waste provisions:

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

Clearance and burning of existing wood or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

Case Officer: Graham Parkinson

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.



## REPORT SUMMARY

<b>REFERENCE NO - 15/505493/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of land to a residential caravan site for two gypsy traveller families containing two static caravans, two touring caravans, parking for four vehicles with associated hardstanding and water treatment plant		
<b>ADDRESS</b> Land Adjoining Greengates, Lenham Road, Headcorn, Kent		
<b>RECOMMENDATION</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> - It is contrary to views expressed by Headcorn Parish Council.		
<b>WARD</b> Headcorn	<b>PARISH COUNCIL</b> Headcorn	<b>APPLICANT</b> Mr T Cosgrove And Mr L Doran <b>AGENT</b> BFSGC
<b>DECISION DUE DATE</b> 10/09/15	<b>PUBLICITY EXPIRY DATE</b> 10/09/15	<b>OFFICER SITE VISIT DATE</b> 29/07/15
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		

None specific to the proposal site.

- 'Greengates' (to front of site):
  - 14/504021 – Application to vary condition 1 of MA/10/2177 to allow any gypsy family to live on site - Under consideration
  - MA/10/2177 – Change of use of land for stationing of 4 caravans for residential occupation by extended Gypsy family and associated development (stationing of 3 touring caravans, extended hardstanding – Approved (3yr temporary personal)
  - MA/05/0518 - Retrospective change of use of land to stationing of mobile home and touring caravan – Refused (permanent personal allowed on appeal)
  - MA/01/1320 - Change of use of land to for stationing of 1 mobile home – Refused (3yr temporary personal allowed on appeal)
- Land to east (behind) of proposal site known as 'Long Lane':
  - 15/502956 – Continued use of land for private gypsy family with 2 caravans and 1 utility block – Under consideration
  - MA/09/1821 – Change of use of land to use as residential caravan site for gypsy family with 1 caravan – Approved (3yr temporary personal)
- 'Acers Place' (site adjacent 'Greengates'):
  - 14/503775 - Variation of condition 1 of MA/10/0266 to allow any gypsy family to live on site – Under consideration
  - MA/10/0266 - Change of use for stationing of mobile home and touring caravan with associated works – Approved (3yr temporary personal)

- MA/06/1790 - Land adjoining Greengates (now known as Acer Place). Change of use of agricultural land to residential for stationing of gypsy caravans and associated development. Approved with conditions
- Oak Tree Farm (site adjacent 'Acers Place'):
  - 15/503517 - Variation of condition 1 of MA/10/1522 to change the names – Under consideration
  - MA/10/1522 - Retrospective change of use of land to mixed use for agriculture, keeping of horses, stationing of 2 mobile homes and storage of 1 touring caravan – Approved (personal permanent)

## **MAIN REPORT**

### **1.0 Site description**

1.01 The proposal site is set back approximately 100m from Lenham Road, making use of an existing vehicle access that is already in use by the occupants of the gypsy site behind ('Long Lane') and those at 'Greengates' which fronts onto the highway. The site is currently vacant, with an existing stable building on site and there is mature tree planting along the site's south-eastern boundary, with the access running along the south-western boundary. The surrounding area is rural in character with sporadic development, including other gypsy and traveller sites, along this section of Lenham Road; and there is a public footpath (KH331B) some 150m away to the south-east of the site. For the purposes of the Development Plan, the proposal site is within the designate countryside that falls within the Low Weald Special Landscape Area (SLA).

### **2.0 Background history**

- 2.01 'Greengates' benefited from a personal 3yr temporary permission which expired on the 3<sup>rd</sup> April 2016 (MA/10/2177), and there is a current application under consideration in for this site to make it a permanent permission for any gypsy or traveller site (14/504021).
- 2.02 The site behind the proposal site benefited from a personal 3yr temporary permission which expired in October 2012 (MA/09/1521), and there is a current application under consideration in for this site to make it a permanent permission for any gypsy or traveller site (15/502956).
- 2.03 As it stands, the cluster of gypsy sites around the proposal site benefit or have benefited from both permanent and temporary personal permissions.

### **3.0 Proposal**

3.01 The proposal is for the change of use of the land for the stationing of 2 mobile homes with 2 tourers. The proposal would include the laying of hardstanding; the retention of the existing stable block; additional planting along the north-eastern boundary and the north-western boundary; and the retention of the mature planting along the south-eastern boundary. Vehicle access to the site would be from the existing access from Lenham Road.

3.02 The 2 proposed pitches will be occupied by Mr Larry Doran and his partner and 4 children (6 months, 3yrs, 11yrs and 14yrs of age); and Mr Thomas Cosgrove who is currently on his own.

#### **4.0 Policies and other considerations**

- Development Plan 2000: ENV6, ENV28, ENV34
- National Planning Policy Framework (2012)
- National Planning Practice Guidance (2014)
- Maidstone Draft Local Plan (Reg 19)
- DCLG - Planning Policy for Traveller Sites (August 2015)

#### **5.0 Consultations**

5.01 **Headcorn Parish Council:** Wish to see the application refused and request the application is reported to Planning Committee;

*"This application was considered by the Council and they wish to see it refused due to:- Visual Impact on the Countryside Our commitment to the G&T community, as stated in the Headcorn Neighbourhood Plan, has been fulfilled There are vacant plots on the existing established site known as the Meadows The objection by WKPS was noted. If they are minded to approve this application it should be on a temporary basis only."*

5.02 **KCC Highways:** Raise no objection.

#### **6.0 Other representations**

6.01 No neighbour representations have been received.

6.02 **Weald of Kent Protection Society:** Raises objection:

- *The site is a greenfield site used for grazing animals.*
- *The numerous traveller sites located on the Lenham Road spoils the rural landscape of the area.*
- *Headcorn has many traveller sites within the area and significant disturbances have occurred with the local people.*
- *Headcorn's primary school is full with many local parents having to send their children to neighbouring schools.*

6.03 **Shenley Farms (Aviation) Ltd (Headcorn Aerodrome):** States site is close to the aerodrome and within the area covered by the safeguarding map and certain noise connected with the aviation activity will be apparent.

#### **7.0 Principle of development**

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

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

7.02 Policy ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing policy H36 of the MBWLP but this is not a 'saved' policy.

7.03 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

7.04 Though work on the emerging local plan is progressing as yet there are no adopted policies responding to the provision of gypsy sites. Local Authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). Whilst this work is set to be revisited in light of the changes to the PPTS, at this time it has not commenced and this information does remain the current need figure. The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

7.05 These figures were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target and were included in the consultation version of the Local Plan.

7.06 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Draft Policy DM16 of the Regulation 19 version of the Draft Local Plan accepts that this type of accommodation can be provided in the countryside provided that certain criterion is met. The Draft Plan also states that the Borough's need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites. The timetable for adoption is currently for the latter half of 2017.

7.07 Issues of need are dealt with below but in terms of broad principles Development Plan Policy and Central Government Guidance allows for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

#### Need for Gypsy Sites

7.08 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

7.09 As stated above, the projection accommodation requirement is as follows:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

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

- 79 Permanent non-personal permissions
- 10 Permanent personal permissions
- 3 Temporary non-personal permissions
- 33 Temporary personal permissions

7.11 Therefore a net total of 89 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such there has been a shortfall of 16 pitches for the 2011-2016 period.

#### Gypsy Status

7.13 Since the application was submitted, the Government has issued revisions on the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31<sup>st</sup> August 2015, and the planning definition of 'gypsies & travellers' have been amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

*"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*

7.14 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

7.15 The agent has confirmed that the families have not ceased to travel permanently or temporarily, travelling to fairs, horse fairs, auctions, markets, and family and cultural events throughout the year across the UK; and that they continue to travel for work throughout the year either individually or collectively with other family members. With the evidence before me I am of the view that the applicants lead a nomadic habit of life and accept that they fall within the gypsy status definition for the purposes of planning.

#### Personal circumstances

7.16 There are personal circumstances related to this application, and these have been set out in the submitted Education and Health Statement. Whilst this information is confidential, a summary will be given. Mr Cosgrove and his partner have 4 children under the age of 16 and their educational needs are considered a priority. Mr Doran has a number of health issues (cardiac and mobility related) and is required to take medication for the foreseeable future. It has also been confirmed that



the families are currently homeless and have been living on the roadside or doubling up on other gypsy and traveller sites, and that the families require a stable base to access their health care and educational needs. This information is attached as a confidential appendix.

### Sustainability

- 7.17 Gypsy traveller sites will almost inevitably be located in countryside locations, and the village of Headcorn, with its services/amenities and public transport links, is located approximately 2km to the south-west of the site. In my view, I do not consider the site to be so far removed from basic services and public transport opportunities as to justify grounds to refuse this application in terms of being unsustainable; and clearly other gypsy sites have been allowed next door. The Planning Policy for Traveller Sites also recognises the benefits of a settled base when assessing sustainability.

## **8.0 Visual impact**

- 8.01 Guidance in the PPTS states that Local Planning Authorities should very strictly limit new traveller development in the countryside but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact has been outlined, however this is addressed in the NPPF and saved Local Plan policy ENV28.
- 8.02 Whilst set behind the road frontage, views of the proposal site are possible at certain points along Lenham Road (when approaching the site in both directions), although the existing hedging and belt of trees along this section of road and neighbouring sites do break up the views; and there are views of the site from the public footpath (KH331B) some 150m away to the south-east of the site. When seen, the proposal (with 2 mobile homes, 2 touring caravans, hardstanding and any fencing) would detract from the landscape. Additional landscaping could be provided but this is not sufficient reason to make the proposal acceptable.
- 8.03 The proposed development would be visually harmful to the area but this is localised with no significant medium to long range landscape impact. However, the proposal would see a relatively open site more developed in the form of 2 mobile homes and 2 touring caravans and the attendant paraphernalia that comes with this. With this considered, the proposal would cause harm to the countryside and Special Landscape Area, and I therefore do not consider a permanent permission is appropriate for this site.

## **9.0 Residential amenity**

- 9.01 A residential use is not generally a noise generating use; and the nearest residential property would be more than 150m away. Given this, I am satisfied that the addition of 2 mobile homes would not have a significant detrimental impact on the residential amenity of any neighbouring property or other neighbouring gypsy site, in terms of general noise and disturbance, and privacy.

## **10.0 Highway safety implications**

10.01 The proposal makes use of an existing access from Lenham Road with no history of crashes; it would provide sufficient parking and turning facilities; the proposal is unlikely to lead to a significant increase in traffic generation or an unacceptable intensification of use of the access; and I also consider the local highway network to be capable of accommodating any additional traffic. The Highways Authority have also raised no objection, and so I am satisfied that this proposal would not result in an adverse highway safety issue.

## **11.0 Other considerations**

11.01 Given the current condition and location of the proposal site, and the nature of the proposed development, I am satisfied that there are no objections to be raised in terms of flood risk and drainage and it is considered unnecessary to request any further ecological information with ecological enhancements coming through the additional native planting. The proposal will include 2 cess pits, and Building Control raise no objection to the use of these in this location, and no further details are required. It is thought that the proposal would not result in an over concentration of gypsies and travellers in the area.

11.02 The issues raised by the Parish Council and other representatives have been addressed in the main body of this report. However, I would add that this application is only concerned with the impacts of the site proposed and no evidence has been submitted to back-up claims that this site would cause unacceptable disturbances to local residents; the addition of 2 families in the area would not place unacceptable burden on local primary schools; and I do not consider it reasonable to refuse this application purely on the grounds that the site is close to Headcorn Aerodrome.

## **12.0 Conclusion**

12.01 There are specific health and educational requirements of the applicants and it is clear that there is a personal need for the applicants to have a permanent base. However, due to the location of this site in an area afforded additional landscape protection, I consider it inappropriate to grant a permanent non-personal permission. The determination of this application centres on the balance to be struck between the harm to the character and appearance of the countryside and SLA, the on-going need to provide accommodation for gypsies and travellers and the personal circumstances of the applicants.

12.02 The applicants are currently homeless and the need for their children to regularly attend school and their on-going medical issues where regular access to a doctors surgery is essential. The applicants personal circumstances have to be given substantial weight in the overall balance, and I consider this to outweigh the harm. So whilst the proposed development would cause some visual harm, which will be mitigated to a degree through a condition for appropriate landscaping, the specific health and educational requirements of the applicants together with the continual

need to provide accommodation for gypsies and travellers leads to a recommendation for a personal permission and I therefore recommend conditional approval of the application on this basis.

**RECOMMENDATION** – GRANT Subject to the following conditions:

- (1) The occupation of the site hereby permitted shall be carried on only by the applicants Mr Larry Doran and Mr Thomas Cosgrove and their partners and resident dependents, and when the site ceases to be occupied by Mr Larry Doran and Mr Thomas Cosgrove the use hereby permitted shall cease and all materials and equipment brought onto the land in connection with the use, including hardstandings, fencing and gates, sheds, greenhouses, utility room, outbuildings hereby approved shall be removed and the land restored to its former condition;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to reflect the personal needs of the named persons and their families, and to safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (2) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans or mobile homes) shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (3) If the use hereby permitted ceases, all caravans, structures, equipment and materials brought onto the land for the purposes hereby permitted including hardstandings, stable blocks and utility rooms shall be removed within 3 months of cessation;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

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

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (5) The development shall not commence until details of the proposed materials to be used in the hardsurfacing within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the subsequently approved details;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (6) The development shall not commence until details of any external lighting within the site shall be submitted to and approved in writing by the local planning authority and anything else beyond this will require further written consent from the local planning authority;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (7) The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping using indigenous species which shall be in accordance with BS:5837 (2012) 'Trees in relation to design, demolition and construction - Recommendations' and include a programme for the approved scheme's implementation, maintenance and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include the following;

- i) Details of the species, size, density and location of all new planting within the site;
- ii) Retention and enhancement of south-eastern boundary planting;
- iii) Native hedge planting along the north-eastern and north-western boundaries of the site.

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area and in the interests of biodiversity.

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

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area and in the interests of biodiversity.

- (9) No commercial or business activities shall take place on the land, including the storage of vehicles or materials and livery use;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (10) The development hereby permitted shall be carried out in accordance with site location plan received 16/07/16 and plan BP-01 received 06/07/15;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area and to prevent harm to the residential amenity of neighbouring occupiers.

Case Officer: Kathryn Altieri

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

# Agenda Item 17



15/506245 - The Chances, Lughorse Lane

Scale: 1:1250

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Playing Field

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**REPORT SUMMARY**

<b>REFERENCE NO - 15/506245/FULL</b>			
<b>APPLICATION PROPOSAL</b> Permanent siting of mobile home and one touring caravan for residential use by gypsy family.			
<b>ADDRESS</b> The Chances, Lughorse Lane, Hunton Kent			
<b>RECOMMENDATION - Permission</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Hutton Parish Council wish to see the application refused.  The application is a departure.			
<b>WARD</b> Coxheath And Hunton Ward	<b>PARISH/TOWN COUNCIL</b> Hunton	<b>APPLICANT</b> John Collins & Lucy Collins <b>AGENT</b>	
<b>DECISION DUE DATE</b> 27/10/15	<b>PUBLICITY EXPIRY DATE</b> 27/10/15	<b>OFFICER SITE VISIT DATE</b> 15/09/15	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
15/506338	Permanent siting of one static and one touring caravan for residential use by Romany gypsies (adjoining site)	Pending	
10/1336	Variation of enforcement appeal reference ENF/8968 Conditions 1 and 2 to allow the use of the site for the siting of a mobile home and a touring caravan on a permanent basis for an extended gypsy family –	Temporary 4 year personal permission	Committee 22.11.2010
11/1900	Variation of condition 4 of planning permission MA/10/1336 to read:  'No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which not more than 2 shall be a static caravan) shall be stationed on the site at any time.'	Permitted	11.10.2012
ENF/8968	The Inspector allowed use of the current site for a temporary personal permission for 3 years for stationing of caravans and use as a traveler site.	Allowed	7.08.2007
10/1542	Planning permission on the adjoining field to north of the site was refused for change of use of land to provide two plots for gypsy travelers	Refused: Impact on open countryside	Committee 11.08.2011

## **MAIN REPORT**

### **1.0 BACKGROUND**

1.1 This site and the adjoining site to the east (15/506245/FULL ) are allocated for use as traveller sites in the new Local Plan (Regulation 19) under policy GT1 (7). Policy GT1 (7) advises in accordance with policy GT1, planning permission for 4 permanent pitches at The Chances, Lughorse Lane, Hunton, will be granted providing the total site capacity does not exceed 4 pitches; future permissions to include additional landscaping and ecology mitigation.

### **2.0 SITE DESCRIPTION**

2.1 The application site is located on the south side of Lughorse Lane in the open countryside. The site has been granted temporary consent for the use as a traveller site and stationing of caravans (now expired) since 2006. The site has been sub divided and planning permission is sought for two permanent traveller sites covering the site area of the previous temporary permission.

2.2 The site is set back approx. 130m from Lughorse Lane and is accessed via a vehicle track running through the adjacent field to the north. The vehicle track is formed of compacted hard-core and is shared with the adjoining site to the west. PROW KM163 crosses the vehicle access to the west of the site. An area of ancient woodland is located to the southwest of the site. The remaining area surrounding the site to the north, east, south and west is open countryside / fields. To the west is an adjoining traveller site. Further to the south is a commercial engineering premises. There is mature vegetation along the site boundaries with the exception of the vehicle access point on the western boundary. The site is located within a Special Landscape Area.

### **3.0 PROPOSAL**

3.1 This is a retrospective planning application and the site has been occupied by gypsy travellers since approx. 2006 with temporary permission originally allowed at appeal and later extended as a further temporary permission.

3.2 Permanent permission is now sought for the siting of one mobile home and one touring caravan for residential use by a gypsy family. The caravan is located adjacent the northern boundary with the tourer located in a more central location within the site. Vehicle access is taken through the adjoining site. Mature vegetation is located on site the boundaries.

### **4.0 POLICIES AND OTHER CONSIDERATIONS**

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, GT1 (7), DM16
- Planning Policy for Traveller Sites (PPTS)

### **5.0 LOCAL REPRESENTATIONS**

5.1 Some 10 objections have been received. The main points of objection are summarised as follows:

- Impact on the character of the surrounding area / countryside.
- The applicant rarely uses the site.
- Permanent permission is not appropriate
- The need for a permanent permission is not clear.



- The applicant has not looked for alternative sites.
- The site is used for business activities.
- The area is prone to flooding.
- Education is not provided locally.
- Pressure on local infrastructure.
- Isolated house in the countryside.
- Emergency access.
- The applicants have ignored planning regulations.
- Not a sustainable location.
- Previous permissions have been for temporary consent.
- Inadequate access.
- The previous justification for this site is no longer relevant.
- The applicant does not use the site.
- Drainage issues.

5.2 Two letters of support has been submitted, summarised as follows:

- The applicant is an honest and nice person.
- The applicant should not be made homeless.

5.2.1 Hutton Parish Council: Hunton Parish Council *‘would like to see this application refused and requests that the application is referred to MBC Planning Committee. The Parish Council would like to see the whole site of The Chances retained as a temporary permission. Should MBC Planning Committee be minded to make the permission permanent, the Parish Council would like the permanent permission to be for a named person only, to last for the period until he/she leaves the site. Furthermore, the Parish Council does not wish to see The Chances site split into two, but retained as one site’.*

## 6.0 CONSULTATION RESPONSES

6.1 **KCC Highways:** Raise no objection.

6.2 **KCC PROW:** No objections

6.3 **Environmental Health Team:** No objections

6.5 **MBC Landscape:** No objections providing existing shared access/entrance is used.

## 7.0 PRINCIPLE OF DEVELOPMENT

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

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

7.2 Policy ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing policy H36 of the MBWLP but this is not a ‘saved’ policy. Policy ENV34 (Special Landscape Area) affords greater protection of the rural landscape.

7.3 A key consideration in the determination of this application is central Government guidance contained with ‘Planning Policy for Traveller Sites’ (PPTS) amended in

August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

7.4 In determining whether persons are “gypsies and travellers” for the purposes of the PPTS, consideration should be given to the following:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

7.5 Though work on the emerging local plan is progressing as yet there are no adopted policies responding to the provision of gypsy sites. Local Authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). Whilst this work is set to be revisited in light of the changes to the PPTS, at this time it has not commenced and this information does remain the current need figure. The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	-	105 pitches
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7.6 These figures were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target and were included in the consultation version of the Local Plan. The current GTAA provides the best evidence of needs available at this point of time and the decision needs to be based on evidence at the time of the decision.

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#### **Need for Gypsy sites**

7.9 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

7.10 As stated above, the projection accommodation requirement is as follows:

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7.12 Therefore a net total of 89 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such a shortfall of 17 (minus 1) pitches remains outstanding.

7.13 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This explains why the need figure appears so high in the first 5 years.

#### **Gypsy status**

7.14 Annex 1 of the PPTS defines gypsies and travellers as:-

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such.”*

7.15 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants’, health or education needs or old age. To determine whether an applicant falls within the definition, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

7.16 A permanent non personal permission is sought in this instance, i.e. any gypsy traveller could occupy the site providing they fall within the definition of a gypsy traveller. Nevertheless it is still necessary examine the gypsy status of the applicant.

7.17 The applicant’s has submitted information to demonstrate that the applicants Mr and Mrs Collins fall within the current definition of a gypsy / traveller. The following information has been provided to address criteria a-c:

- Gypsy status of the applicants has been accepted during previous applications on this site.
- Evidence demonstrates that the applicant travellers frequently for work.
- Their children currently attend the local school.

- A statement explaining that the applicants intend to continue living a nomadic habit of life after the children have finished school.

7.18 From this I consider there is sufficient evidence that the applicants Mr and Mrs Collins and their children are from the travelling community and they continue to lead a nomadic habit of life and it is accepted that they fall within the gypsy status definition.

7.19 The personal circumstances of the applicant are also put forward as justification for the need for this site with the applicant's children attending the local school. Notwithstanding this the proposal is for a non personal permission and it is considered that the applicants have provided sufficient evidence of their gypsy traveller status.

7.20 Given the fact the Council is unable to offer any alternative accommodation and, taking into consideration the needs of the children living at the site leads me to give the needs of the applicant weight in the determination of this application.

7.21 As stated above, this application proposes a non personal permission and the site could be occupied by any gypsy traveller should Members be minded to grant permission.

## **8.0 VISUAL IMPACT**

8.1 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined; however, this is addressed in the NPPF and saved Local Plan policy ENV28 and ENV34.

8.2 The landscape in the vicinity of the application site is in relatively flat agricultural land, interspersed with hedgerows and woodland blocks. The site itself is fairly well enclosed. There is mature hedgerow planting along the north, east, south and a majority of the west boundary with the exception of the vehicle access. The boundary screening and distance of the site from Lughorse Lane all limit mid- to long-distance views into the site. Short range views are also limited by the boundary screening along the west side of the site and close range views are limited to the PROW located to the west of the site. Close range views are mainly limited to views of the site entrance and shared vehicle access. There is a further gypsy/traveller caravan site adjacent (app no. 15/506338), to which the application site would be well related without significant cumulative visual impact. In this context the development is not considered to be visually intrusive, and would be neither incongruous nor discordant. The vegetation along northern boundary could be improved to plug up any gaps to further improve the screening and further limit views of the site from Lughorse Lane. This could be adequately secured by condition.

8.3 Overall it is considered that the site is currently well screened and subject to additional supplementary planting along the northern boundary, the continued use of the site for permanent occupation as a gypsy traveller site would not cause undue harm to the open countryside and Special Landscape Area.

## **9.0 SUSTAINABILITY**

9.1 Gypsy traveller sites will almost inevitably be located in countryside locations. The site is located less than 1 miles form Hunton and less than 2 miles from Yalding. In my view, I do not consider the site to be so far removed from basic services, schools

and other facilities as to justify grounds to refuse this application in terms of being unsustainable.

#### **10.0 RESIDENTIAL AMENITY**

10.1 The site is some distance from the nearest residential properties such that I am satisfied that the development would not have a significant detrimental impact on the residential amenity of any neighbouring occupant, in terms of loss of light outlook and privacy and in terms of general noise and disturbance. The Environmental Health Department have confirmed there have been no complaints regarding this site. A further gypsy traveller application is currently under consideration on the adjoining site. Sufficient screening is provided on the west boundary between the two sites.

#### **11.1 HIGHWAY SAFETY IMPLICATIONS**

11.1 The site has an established vehicle access onto Lughorse Lane across / along the boundary of the field to the north of the site. The development would not result in a significant increase in traffic movements and I consider the local highway network to be capable of accommodating the relatively low vehicle movements to and from the site. There is sufficient parking and turning space within the site; the access road is suitably surfaced; and the gates are set back from the highway. KCC Highways have raised no objection on highways safety or parking grounds.

#### **12.0 LANDSCAPE AND BIODIVERSITY IMPLICATIONS**

12.1 The site has been used as a gypsy traveller site since 2006 and hard-core for the vehicle access and parking areas is already laid. Not including the established vegetation along the site boundaries the application site is likely to have limited ecological value due to the continued occupation.

12.2 One of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*". Biodiversity enhancements shall include erection of bird / bat boxes within the site and could be secured by condition.

12.3 As stated above the site is well screened and benefits from established mature boundary vegetation. Additional landscaping could be secured along the northern site boundary which would improve the landscape and biodiversity within the site.

12.4 No objections have been raised by KCC, the forestry commission and landscape officer on the grounds that there would be any impact on the ancient woodland to the south of the site.

#### **13.0 OTHER CONSIDERATIONS**

13.1 Given the location of the proposal site, I am satisfied that there are no objections to be raised in terms of flood risk. In the event of permission being granted a condition is recommended for further information on drainage and the use of a septic tank or cess pit.

13.2 There are other gypsy and traveller sites within the wider area in Hunton and Yalding but I do not consider the granting of permission here would lead to an unacceptable over-concentration of sites, or result in unacceptable visual harm given the distance between each of the sites. Further, given the sporadic residential development within the immediate area and relatively sustainable location, it is not considered that this site would individually or cumulatively dominate the nearest settled community or place undue pressure on the local infrastructure.

13.3 I am satisfied that the mobile home fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended), and an appropriate condition will control this.

13.4 I do not recommend any conditions restricting occupancy to the applicant on the basis that the site and development are considered acceptable for all the reasons above. In the case of this specific site, there is no reason to object to a permanent unrestricted use as a gypsy site.

#### **14.0 CONCLUSION**

14.1 The site is located within the countryside; however, gypsy sites can be acceptable in the countryside. It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for traveller sites document.

14.2 The visual impact of the development is minimal. There is good boundary screening and the site is set back from the road. Nonetheless, boundary treatment and landscaping conditions should still be imposed to enhance and secure the appearance of the site, secure the existing trees and planting; and also the required planting.

14.3 The application site, when combined with other gypsy sites in the vicinity, and in relation to existing authorised developments, does not dominate the settled community.

14.4 In the context of gypsy and traveller accommodation, the application site is considered to be in a relatively sustainable location that is not so remote from services and facilities to justify a refusal.

14.5 The application development does not have any adverse impact on residential amenity.

14.6 The application development does not lead to any increased risk to highway safety.

14.7 There are no other significant planning issues that would warrant refusal of the application.

14.8 I therefore consider the development is acceptable and recommend permanent permission.

#### **11.0 RECOMMENDATION – GRANT Subject to the following conditions**

##### CONDITIONS to include

(1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

(2) No more than one static caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed

on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (3) No commercial or business activities shall take place on the land;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (4) Within three months of the date of this decision notice, details of a scheme of landscaping, using indigenous species which shall be in accordance with BS:5837 (2012) 'Trees in relation to design, demolition and construction - Recommendations' and include a programme for the approved scheme's implementation, maintenance and long term management plan shall be submitted for approval in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include the following;

- i) Details of the species, size, density and location of new planting along the northern site boundary;
- ii) The retention and enhancement of the existing planting along all boundaries of the site.

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the date of the approval; 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.

- (6) Within three months of the date of this decision, details of the erection of bat and bird boxes within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: in the interests of ecology.

- (7) No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV49 of the Maidstone Borough-Wide Local Plan (2000).

- (8) The development hereby permitted shall be carried out in accordance with the following drawings:

15-5611-02 Rev A (Site Location Plan) and 15-5611-02 Rev A (Existing Site Block Plan); dated August 2015.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

## INFORMATIVES

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Case Officer: Andrew Jolly

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.





15/506338 - The Chances, Lughorse Lane  
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**REPORT SUMMARY**

<b>REFERENCE NO - 15/506338/FULL</b>			
<b>APPLICATION PROPOSAL</b> Permanent siting of one static and one touring caravan and two storage sheds for residential use by Romany gypsies			
<b>ADDRESS</b> The Chances, Lughorse Lane, Hunton Kent			
<b>RECOMMENDATION –</b> Permission			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Hutton Parish Council wish to see the application refused.  The application is a departure.			
<b>WARD</b> Coxheath And Hunton Ward	<b>PARISH/TOWN COUNCIL</b> Hunton	<b>APPLICANT</b> Mrs Lena Smith <b>AGENT</b> E And P Building Design	
<b>DECISION DUE DATE</b> 02/10/15	<b>PUBLICITY EXPIRY DATE</b> 02/10/15	<b>OFFICER SITE VISIT DATE</b> 2/09/2015	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
15/506245/FULL	Permanent siting of mobile home and one touring caravan for residential use by gypsy family (adjoining site)	Pending	
10/1336	Variation of enforcement appeal reference ENF/8968 Conditions 1 and 2 to allow the use of the site for the siting of a mobile home and a touring caravan on a permanent basis for an extended gypsy family –	Temporary 4 year personal permission	Committee 22.11.2010
11/1900	Variation of condition 4 of planning permission MA/10/1336 to read: 'No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which not more than 2 shall be a static caravan) shall be stationed on the site at any time.'	Permitted	11.10.2012
ENF/8968	The Inspector allowed use of the current site for a temporary personal permission for 3 years for stationing of caravans and use as a traveler site.	Allowed	7.08.2007
10/1542	Planning permission on the adjoining field to north of the site was refused for change of use of land to provide two plots for gypsy travelers	Refused: Impact on open countryside	Committee 11.08.2011

## **MAIN REPORT**

### **1.0 BACKGROUND**

- 1.1 This site and the adjoining site to the east (15/506245/FULL ) are allocated for use as traveller sites in the new Local Plan (Regulation 19) under policy GT1 (7). Policy GT1 (7) advises in accordance with policy GT1, planning permission for 4 permanent pitches at The Chances, Lughorse Lane, Hunton, will be granted providing the total site capacity does not exceed 4 pitches; future permissions to include additional landscaping and ecology mitigation.

### **2.0 SITE DESCRIPTION**

- 2.1 The application site is located on the south side of Lughorse Lane in the open countryside. The site has been granted temporary consent for the use as a traveller site and stationing of caravans (now expired) since 2006. The site has been subdivided and planning permission is sought for two permanent traveller sites covering the site area of the previous temporary permission.
- 2.2 The site is set back approx. 130m from Lughorse Lane and is accessed via a vehicle track running through the adjacent field to the north. The vehicle track is formed of compacted hard-core and is shared with the adjoining site to the east. PROW KM163 crosses the vehicle access to the west of the site. An area of ancient woodland is located to the southwest of the site. The remaining areas surrounding the site to the north, east, south and west is open countryside / fields. Further to the south is a commercial engineering premises. There is mature vegetation along the site boundaries with the exception of the vehicle access point on the western boundary. The site is located within a Special Landscape Area.

### **3.0 PROPOSAL**

- 3.1 This is a retrospective planning application and the site has been occupied by gypsy travellers since approx. 2006 with temporary permission originally allowed at appeal and later extended as a further temporary permission.
- 3.2 Permanent permission is now sought for the siting of one static and one touring caravan and two storage sheds, for residential use by Romany gypsies. The caravan, tourer and two small sheds are located adjacent the northern site boundary with the vehicle access and a parking area along the south and east boundary of the site. The vehicle access track is shared with the adjoining site.

### **4.0 POLICIES AND OTHER CONSIDERATIONS**

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, GT1 (7), DM16
- Planning Policy for Traveller Sites (PPTS)

### **5.0 LOCAL REPRESENTATIONS**

- 5.1 Some 10 objections have been received. The main points of objection are summarised as follows:
- Impact on the character of the surrounding area / countryside.
  - The applicant rarely uses the site.
  - Permanent permission is not appropriate
  - The need for a permanent permission is not clear.
  - The applicant has not looked for alternative sites.

- The site is used for business activities.
- The area is prone to flooding.
- Education is not provided locally.
- Pressure on local infrastructure.
- Isolated house in the countryside.
- Emergency access.
- The applicants have ignored planning regulations.
- Not a sustainable location.
- Previous permissions have been for temporary consent.
- Inadequate access.
- The previous justification for this site is no longer relevant.
- The applicant does not use the site.
- Drainage issues.

5.2 Three letters of support have been submitted, and are summarised as follows:

- The applicant is an honest and nice person.
- The applicant should not be made homeless.

5.3 **Hutton Parish Council:** *‘Would like to see this application refused and requests that the application is referred to MBC Planning Committee. The Parish Council would like to see this retained as a temporary permission. Should MBC Planning Committee be minded to make the permission permanent, the Parish Council would like the permanent permission to be for a named person (the applicant) only, to last for the period until she leaves the site’.*

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7.16 A permanent non personal permission is sought in this instance, i.e. any gypsy traveller could occupy the site providing they fall within the definition of a gypsy traveller. Nevertheless it is still necessary examine the gypsy status of the applicant.

7.17 The applicant’s agent has submitted information to demonstrate that the applicant Lena Smith falls within the current definition of a gypsy / traveller. The following information has been provided to address criteria a-c:

- Evidence that the applicant has lived on various other traveller sites in the past.
- Gypsy status of the applicant accepted during previous applications on this site.
- Various destinations that the applicant travels to each year including invoices and letters from several caravan parks around the UK.
- Evidence / invoices demonstrating that the applicant travellers frequently for work.
- A statement explaining that the applicant intends to continue living a nomadic habit of life.

- 7.18 From this I consider there is sufficient evidence that the applicant Lena Smiths is from the travelling community and continues to lead a nomadic habit of life and it is accepted that she falls within the gypsy status definition.
- 7.19 The personal circumstances of the applicants were put forward during previous assessment of this site for gypsy occupation. No evidence has been submitted indicating that the applicant has any dependants attending local schools and no health reasons have been provided with the current application. Notwithstanding this the applicant has provided sufficient evidence of her gypsy traveller status and the permission sought is non personal and permanent.
- 7.20 Given the fact the Council is unable to offer any alternative accommodation the need to provide accommodation for the applicant weigh in the determination of this application.
- 7.21 As stated above, this application proposes a non personal permission and the site could be occupied by any gypsy traveller should Members be minded to grant permission.

## **8.0 VISUAL IMPACT**

- 8.1 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined; however, this is addressed in the NPPF and saved Local Plan policy ENV28 and ENV34.
- 8.2 The landscape in the vicinity of the application site is in relatively flat agricultural land, interspersed with hedgerows and woodland blocks. The site itself is fairly well enclosed. There is mature hedgerow / tree planting along the north, east and majority of the west boundary with the exception of the vehicle access, and a wooded area is located to the south of the site. The boundary screening and distance of the site from Lughorse Lane all limit mid- to long-distance views into the site. Short range views are afforded from the PROW located to the west of the site. These are close range views and are limited to the vehicle entrance and access track. There is a further gypsy/traveller caravan sites adjacent (app no. 15/506245/FULL), to which the application site would be well related without significant cumulative visual impact. In this context the development is not considered to be visually intrusive, and would be neither incongruous nor discordant. The vegetation along northern boundary could be improved to plug up any gaps to further improve the screening and further limit views of the site from Lughorse Lane. This could be adequately secured by condition.
- 8.3 Overall it is considered that the site is currently well screened and subject to additional supplementary planting along the northern boundary, the continued use of the site for permanent occupation as a gypsy traveller site would not cause undue harm to the open countryside and Special Landscape Area.

## **9.0 SUSTAINABILITY**

- 9.1 Gypsy traveller sites will almost inevitably be located in countryside locations. The site is located less than 1 miles form Hunton and less than 2 miles from Yalding. In my view, I do not consider the site to be so far removed from basic services, schools and other facilities as to justify grounds to refuse this application in terms of being unsustainable.

## **10.0 RESIDENTIAL AMENITY**

10.1 The site is some distance from the nearest residential properties such that I am satisfied that the development would not have a significant detrimental impact on the residential amenity of any neighbouring occupant, in terms of loss of light, outlook and privacy and in terms of general noise and disturbance. The Environmental Health Department have confirmed there have been no complaints regarding this site. A further gypsy traveller application is currently under consideration on the adjoining site. Sufficient screening is provided on the east boundary between the two sites.

## **11.1 HIGHWAY SAFETY IMPLICATIONS**

11.1 The site has an established vehicle access onto Lughorse Lane along the boundary of the field to the north of the site. The development would not result in a significant increase in traffic movements and I consider the local highway network to be capable of accommodating the relatively low vehicle movements to and from the site. There is sufficient parking and turning space within the site; the access road is suitably surfaced; and the gates are set back from the highway. KCC Highways have raised no objection on highways safety or parking grounds.

## **12.0 LANDSCAPE AND BIODIVERSITY IMPLICATIONS**

12.1 The site has been in use as a gypsy traveller site since 2006 and hard-core for the vehicle access and parking areas is already laid and the sites have been cleared and caravans have been stationed within the site. Not including the established vegetation along the site boundaries the application site is likely to have limited ecological value due to the continued occupation.

12.2 One of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*". Biodiversity enhancements shall include erection of bird / bat boxes within the site and could be secured by condition.

12.3 As stated above the site is well screened and benefits from established mature boundary vegetation. Additional landscaping along the northern site boundary would improve the landscape and biodiversity within the site.

12.4 No objections have been raised by KCC, the forestry commission and landscape officer on the grounds that that there would be any impact on the ancient woodland to the south of the site.

## **13.0 OTHER CONSIDERATIONS**

13.1 Given the location of the proposal site, I am satisfied that there are no objections to be raised in terms of flood risk. The layout plan indicates a cess pit within the site but no further details have been provided. In the event of permission being granted a condition is recommended for further information on drainage and the cess pit.

13.2 There are other gypsy and traveller sites within the wider area in Hunton and Yalding but I do not consider the granting of permission here would lead to an unacceptable over-concentration of sites, or result in unacceptable visual harm given the distance between each of the sites. Further, given the sporadic residential development within the immediate area it is not considered that this site would individually or cumulatively dominate the nearest settled community or place undue pressure on the local infrastructure.



13.3 I am satisfied that the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended), and an appropriate condition will control this.

13.4 I do not recommend any conditions restricting occupancy to the applicant on the basis that the site and development are considered acceptable for all the reasons above. In the case of this specific site, there is no reason to object to a permanent unrestricted use as a gypsy site.

#### **14.0 CONCLUSION**

14.1 The site is located within the countryside; however, gypsy sites can be acceptable in the countryside. It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for traveller sites document.

14.2 The visual impact of the development is minimal. There is good boundary screening and the site is set back from the road. Nonetheless, boundary treatment and landscaping conditions should still be imposed to enhance and secure the appearance of the site, secure the existing trees and planting; and also the required planting.

14.3 The application site, when combined with other gypsy sites in the vicinity, and in relation to existing authorised developments, does not dominate the settled community.

14.4 In the context of gypsy and traveller accommodation, the application site is considered to be in a relatively sustainable location that is not so remote from services and facilities to justify a refusal.

14.5 The application development does not have any adverse impact on residential amenity.

14.6 The application development does not lead to any increased risk to highway safety.

14.7 There are no other significant planning issues that would warrant refusal of the application.

14.8 I therefore consider the development is acceptable and recommend permanent permission.

#### **11.0 RECOMMENDATION – GRANT Subject to the following conditions**

##### CONDITIONS to include

(1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

(2) No more than one static caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed

on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (3) No commercial or business activities shall take place on the land;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (4) Within three months of the date of this decision notice, details of a scheme of landscaping, using indigenous species which shall be in accordance with BS:5837 (2012) 'Trees in relation to design, demolition and construction - Recommendations' and include a programme for the approved scheme's implementation, maintenance and long term management plan shall be submitted for approval in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include the following;

- i) Details of the species, size, density and location of new planting along the northern site boundary;
- ii) The retention and enhancement of the existing planting along all boundaries of the site.

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the date of the approval; 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.

- (6) Within three months of the date of this decision, details of the erection of bat and bird boxes within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: in the interests of ecology.

- (7) No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV49 of the Maidstone Borough-Wide Local Plan (2000).

- (8) The development hereby permitted shall be carried out in accordance with the following drawings:

15-5611-02 Rev A (Site Location Plan) and 15-5611-02 Rev A (Existing Site Block Plan); dated August 2015.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

## INFORMATIVES

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

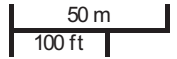
In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Case Officer: Andrew Jolly

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

# Agenda Item 19



15/506840 - Land North of Bicknor Wood

Scale: 1:2500

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## REPORT SUMMARY

<b>REFERENCE NO - 15/506840/FULL</b>		
<b>APPLICATION PROPOSAL</b> Temporary change of use of land for the storage of topsoil prior to distribution (Retrospective).		
<b>ADDRESS</b> Land North Of Bicknor Wood Gore Court Road Maidstone Kent		
<b>RECOMMENDATION - Permit</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development is not in accordance with Development Plan policy. However, given the temporary nature of the proposal, it is considered that the low adverse impacts would not significantly and demonstrably outweigh the benefits of this proposal. For the reasons set out, the proposal is considered to accord with the National Planning Policy Framework and represent circumstances that can outweigh the existing Development Plan policies and there are no overriding material considerations to indicate a refusal of planning consent.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <ul style="list-style-type: none"> <li>- It is a departure from the Development Plan.</li> <li>- Otham Parish Council wish to see the application refused.</li> <li>- Councillor Newton has called the application to Planning Committee</li> </ul>		
<b>WARD</b> Downswood & Otham	<b>PARISH COUNCIL</b> Otham	<b>APPLICANT</b> Bellway Homes Ltd <b>AGENT</b>
<b>DECISION DUE DATE</b> 08/04/16	<b>PUBLICITY EXPIRY DATE</b> 25/12/15	<b>OFFICER SITE VISIT DATE</b> 26/11/15
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		

- 15/509251 - Outline application for minimum of 250 dwellings (all matters reserved for future consideration with exception of access) – Under consideration
- 15/507187 – Environmental Screening Opinion for development of up to 300 dwellings and associated infrastructure – Environmental Impact Assessment not required
- MA/13/0951 - Erection of 186 dwellings - Approved

## MAIN REPORT

### 1.0 Site description

1.01 The application site relates to a parcel of relatively flat agricultural that is of a generally rectangular shape, covering an area of approximately 2.5ha. The site is bordered by Gore Court Road to the west; White Horse Lane to the north; the remaining area of farmland to the east; and ancient semi natural woodland to the south. Access into the site is from the south-western corner of the site, onto Gore Court Road. The northern and western boundaries benefit from well established hedging, and the ancient semi natural woodland to the south provides further screening.

1.02 The nearest residential properties are to the west of the application site, on the other side of Gore Court Road, and in terms of character, vary in scale, design and age.

- 1.03 For the purposes of the Maidstone Borough-Wide Local Plan (MBWLP), the application site is within the countryside, with the defined urban boundary adjacent its western boundary.

## **2.0 Proposal**

- 2.01 This is a retrospective application for the temporary change of use of a parcel of land (some 2.5ha in area) for the storage of topsoil prior to its distribution. The clean soil has been stripped from the land to the south of the site (beyond the ancient semi natural woodland), which is currently under development to provide 186 houses under planning permission MA/13/0951; and it is being stockpiled on site until it will be redistributed to other Bellway Homes Ltd (Kent Division) developments in Kent over the next 3 years (including the site at Imperial Park, Sutton Road), for use in gardens and public areas of landscaping. The maximum height of the stockpile would not exceed 5m in height from ground level. Vehicle access into the site is from an existing access point in the south-western corner of the field, onto Gore Court Road. Whilst the levels of topsoil change, on my last site visit there were 5/6 piles of differing sizes present.
- 2.02 There is approximately 6,685m<sup>3</sup> of topsoil material; and the agent has stated that the Imperial Park development will require the majority of this, with the remaining material being spread amongst 4 other developments in West Malling, Dartford, Ashford and Horsham. The applicant has confirmed that this equates to some 10,000 tonnes. It is estimated that their current Groundworker moves 15m<sup>3</sup> per load, and 6 loads per day, equating to approximately 74 days of soil movement that will be needed to clear the site at some time over the next 3 years (1095 days). However, it should be noted that it has not been identified when the movements will happen as this is dependent on when the topsoil is required (hence the 3 year period for the storage). The applicant has also confirmed that there will be no additional soil to be stored on the site.
- 2.03 Turning of the top-soil is only required when wet topsoil has been stored, in accordance with the DEFRA Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, otherwise the piles are left as set out in the Materials Management Plan. Where the topsoil is to be stored for more than 6 months, the surface will be planted with quick germinating fescue/clover seed mix, to stabilise the surface and reduce the risk of erosion.

## **3.0 Policies and other considerations**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28
- National Planning Policy Framework (2012)
- National Planning Practice Guidance (2014)
- Maidstone draft Local Plan (Reg 19)

## 4.0 Consultee responses

### 4.01 Councillor Newton: Has called the application to Planning Committee;

*"I wish to object to the proposal in respect of the dumping of earth at the site noted in the application on the grounds that it does not comply with NPPF Core Planning Principles (Para 17):*

- *take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
- *contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;*
- *encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value;*
- *conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.*

*Bicknor Wood is classified as Ancient Woodland and the developer has already damaged areas of it through illegal dumping of earth. The above application fails to address any of section 3 within the NPPF ~ Supporting a prosperous rural economy ~ Para 28. As you are aware there are numerous other paragraphs in the NPPF that can be used to reject the above application including Section 11 paras 109, 111,112, 113 114. The area close to Bicknor Wood has already been damaged and the biodiversity challenged by the dumping of earth next to the woodland."*

### 4.02 Otham Parish Council: Wishes to see the application refused and reported to Planning Committee. There objections are summarised as follows;

- *Vehicles have meant additional traffic on Gore Court Road, deposits of mud left on the road and noise nuisance to existing neighbouring properties.*
- *Concerns about rainfall run-off - ditches alongside of this field do not operate effectively and we can only see that the location of great mounds of soil in the field will worsen run off in the autumn and winter and have a negative impact on the flooding which already takes place here.*
- *3yrs is considered to be a long time to be called temporary.*
- *Site not suitable for this type of use due to its close proximity to ancient woodland.*
- *Access from A229 is already deemed unsuitable for HGVs - removal of top soil to other Bellway sites will increase risk of injury to pedestrians (and cyclists) as there are no pavements in area, no lighting and proposed entrance is on a site restricted with a bend in the road.*
- *There is no indication as to how access will be promoted via the A274. Also, there is no indication as to how a 10mph speed limit will be enforced.*
- *Use of site by Bellway will create noise, mud on the roads and dust. The ability to monitor noise and working hours has already proved ineffective.*

### 4.03 KCC Highways: Raise no objection.

### 4.04 Landscape Officer: Raises no objection.

### 4.05 Biodiversity Officer: Raises no objection.

4.06 **Environmental Health Officer:** Raises no objection.

4.07 **Environment Agency:** Raises no objection.

4.08 **KCC SUDS:** Raises no objection.

4.09 **Agricultural Advisor:** Raises no objection.

## **5.0 Neighbour responses:**

5.01 2 representations received raising concerns over dust; noise and general disturbance; highway safety; congestion; mud depositing onto highway; and how the application has been dealt with.

## **6.0 Relevant policy/guidance**

6.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

6.02 The application site is adjacent, but outside of the defined urban boundary, and is therefore upon land defined in the Local Plan as countryside. The starting point for consideration is saved policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 which states as follows:-

*"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:*

*(1) That which is reasonably necessary for the purposes of agriculture and forestry; or*

*(2) The winning of minerals; or*

*(3) Open air recreation and ancillary buildings providing operational uses only; or*

*(4) The provision of public or institutional uses for which a rural location is justified; or*

*(5) Such other exceptions as indicated by policies elsewhere in this plan.*

*Proposals should include measures for habitat restoration and creation to ensure that there is no net loss of wildlife resources."*

6.03 The proposed development does not fit into any of the exceptions set out in policy ENV28, which is why it has been advertised as a departure from the Development Plan.

6.04 The golden thread running through the National Planning Policy Framework (NPPF) is the presumption in favour of sustainable development. Within the NPPF, there are 3 dimensions to sustainable development, those being economic, social and environmental, and these roles should not be undertaken in isolation.

6.05 In terms of location, whilst in the designated countryside, the site is adjacent the defined urban area; it is adjacent to Imperial Park (where the topsoil has been taken from and where the bulk of it is to be returned); and it is only 400m from the junction with Sutton Road (A274), a main transport route in and out of Maidstone. I cannot therefore argue that the application site is in an unsustainable location.



6.06 It is necessary therefore to consider two main issues in relation to this development. Firstly, whether there are any material considerations that would indicate that a decision not in accordance with the Development Plan is justified, and secondly whether the development would cause unacceptable harm. I will now go on to consider the key planning issues.

## **7.0 Visual impact**

7.01 Given the change of the site from flat agricultural land to storing piles of topsoil, it is accepted that this development causes some visual harm to the character and appearance of the surrounding area from short to medium distance views. Indeed, views are possible from public vantage points to the west along Gore Court Road; to the north along White Horse Lane; and from the public footpath (KM94) that runs along the larger field's edge to the east which is some 300m way. However, this development is for a temporary period only and the site does benefit from reasonable screening along its boundaries, including mature hedgerows along the northern and western edges and the ancient semi natural woodland along the southern edge of the site, preventing full views of the piles of topsoil. I am also satisfied that there are no significant long distance views of the development from any environmentally sensitive location outside the site. A condition could be imposed to ensure that no topsoil pile will exceed 5m in height from ground level, to further safeguard the visual amenity of the area. I am also satisfied that the site could be reverted back to agricultural land relatively easy and quickly. So whilst the development does appear as an incongruous feature within the landscape and is harmful, it is relatively well screened and on balance I consider the development and harm can be accepted for the temporary 3 year period. Clearly the harm caused would be for a limited period of time and the land would then revert to its original state.

## **8.0 Residential amenity**

8.01 The main concerns here are in terms of dust; noise from vehicle movements; and hours of operation. These issues have been covered in the submitted Construction Management Plan (which indicates that the construction management plan will be used for the duration of the activities in relation to the stockpile) and these will now be summarised.

8.02 Dust (during on-site operations and vehicle movements on and off site)

- The applicant will adhere to the control of dust and emissions from construction and demolition Best Practice Guidance (November 1006);
- Site transport that creates substantial amounts of dust must ensure following hierarchy of prevention is implemented: Being adequate ventilation provided, or water suppression system used, or local ventilation systems used;
- Will undertake "dampening down" of any unmade site roads by means of towed dust suppression unit as and when required by prevailing conditions on site.

8.03 Hours of operation

- Hours of work for stockpiling/turning/shaping materials will be:
  - Monday-Friday 8am-5pm
  - Saturday 8am-1pm
  - No time on Sundays or Public Holidays
- Hours of work for vehicle movements entering and leaving site will be:
  - Monday-Friday 8.30am-4pm
  - Saturday 8.30am-12pm
  - No time on Sundays or Public Holidays
- These working hours will be notified in writing to all contractors and hauliers.

8.04 Noise (from vehicles entering and leaving the site)

- Access to site will be via existing field entrance on Gore Court Road and will be promoted as via A274 from all directions, avoiding significant construction going through Downswood and Otham;
- Temporary haul road put in place to allow vehicles to pull off Gore Court Road to avoid soft ground being rutted against highway and to provide an area for cleaning down vehicles before leaving site;
- On site access, egress and haul routes restricted to 10mph, to be lowered to 5mph for all vehicles travelling over unmade ground to minimise likelihood of dust creation.

8.05 Noise (from vehicles operating on the site)

- Work is prohibited outside the hours of operation, as set out above;
- Noise levels continually monitored and recorded by Bellway;
- Contractors will implement best practicable means to reduce noise levels – in accordance with the recommendations established in BS5228-1:2009 and BS5228-2:2009 – for control of noise on construction and open sites;
- All vehicles, compressors and plant will be equipped with effective silencers and noise reducing insulation; vehicles/machinery will be switched off when not in use; if needed, plant and equipment will be sited away from western boundary of site; and reverse alarms will be set to minimum;
- Noise complaints will be investigated by Bellway, and any complaint will be dealt with under Considerate Constructors Scheme;
- Applicant is also positive towards community liaison including putting in place methods for handling and monitoring complaints and contact details for Project Managers.

8.06 The Environmental Health Officer has reviewed the submitted information, and raises no objection to the development on amenity grounds. With the detailed Construction Management Plan considered (which will be used for the duration of the activities in relation to the development) together with the Environmental Health Officer's recommendation, I am satisfied that the development would not have a significant detrimental impact on the residential amenity of neighbouring properties.

## **9.0 Highway safety implications**

9.01 The Construction Management Plan sets out what actions/procedures are to be put in place in relation to highway safety, and these will now be summarised:

- All contractors and hauliers will be notified that access to the application site should be from Sutton Road and not through Downswood and Otham;
- Temporary haul road within the site would allow vehicles to pull off Gore Court Road to avoid soft ground being rutted against highway and to provide an area for cleaning down vehicles before leaving site;
- Pressure washing facility will be installed within site to ensure vehicles leaving site do not deposit mud/debris onto the local road network; and any waste aggregates, water and sludge type materials resulting from this cleaning will be removed from site by licenced waster carrier and disposed of correctly;
- Mechanical road sweeper with vacuum facilities shall be used on the public highway immediately adjacent the site on a regular basis when deemed necessary.

9.02 It should also be noted that the majority of the traffic route will be through the Imperial Park development, using their temporary haul road in the short term and then their completed site road in the longer term. This keeps the majority of the vehicles off of Gore Court Road, except for a small length between the application site and Imperial Park (approximately some 50m).

9.03 The Highways Authority is satisfied that the information has addressed their initial concerns, subject to the development being carried out in accordance with the submitted Materials Management Plan and Construction Management plan. The Highways Authority has requested the use of bound surface for first 12m of access from edge of carriageway. However, given the temporary nature of the use, the provision of wheel washing and road sweeping facilities, and the likely visual harm such an area of hardstanding would cause, on balance I do not consider this laying of hardstanding to be necessary and it would be unreasonable to refuse this application on these grounds alone.

9.04 The Highways Authority have also commented that the use of a banksman being in attendance for vehicle movements to and from the site is advisable. The applicant has confirmed this is achievable and a suitable condition will be duly imposed.

9.05 Putting it into context, and as explained previously, there will be approximately 74 days of soil movement over the next 3 years (which equates to an average of 6 loads per day); and the applicant has confirmed that there will be no additional soil to be stored on the site. This will be secured by way of condition. As such, I am therefore satisfied that this application can be put forward for approval based on the information submitted.

## **10.0 Arboricultural/biodiversity implications**

- 10.01 There are no trees within the site, and the development has retained the hedgerow along the northern and western boundaries of the site. This said, Bicknor Wood to the south of the site is classified as ancient semi natural woodland. Please note that the applicant has confirmed that no topsoil would be sited within 15m of this woodland, and this will be secured by way of condition.
- 10.02 The Landscape Officer raises no landscape/arboricultural objection to this application, subject to a condition to ensure the protection of this adjacent woodland (protective fencing and/or ground protection in accordance with BS5837:2012); and also comments that as the site is relatively level, there is unlikely to be significant run-off from the spoil heaps in to the Ancient Woodland. Based on this advice, I raise no objection to the proposal on landscape/arboricultural grounds.
- 10.03 In terms of biodiversity implications, an ecological survey of the whole field has been carried out as part of 15/509251 (outline for min. 250 dwellings), and the Biodiversity Officer has assessed this report for this smaller application. For clarification purposes, this Ecological Appraisal was undertaken in October 2015 (Aspect Ecology ref: ECO4320.EcoApp.vf).
- 10.04 This survey assessed the potential for reptiles, Great Crested Newts, Badgers, Bats and nesting birds to be present within the site and specific reptile and bats surveys were also carried out. No reptiles were recorded but foraging badgers and low numbers of foraging bats were recorded within the site. In relation to this application, the Biodiversity Officer considers the main impact on protected/notable species is likely to be on badgers as there is a risk that badgers could create new setts within the spoil heaps, particularly as the topsoil is not rotated regularly. As such, the Biodiversity Officer has recommended that a condition is imposed requiring the production of a badger method statement. The applicant has agreed to this approach, and I consider it reasonable to impose such a condition. No further ecological work is considered necessary in terms of bats, as the development involves no disturbance of the surrounding trees and no lighting is proposed. I therefore do not require any further information and raise no objection to this application on ecological grounds.

## **11.0 Other considerations**

- 11.01 It has been accepted that the soil from Imperial Park is uncontaminated (under MA/13/0951) and the Environmental Health Officer has raised no objection in this respect; and the Environment Agency has assessed this application as having a low environmental risk and has no comments to make.
- 11.02 The Flood Risk Project Officer raises no objection to the development in terms of surface water drainage. Notwithstanding this, they have pointed out that measures could also be taken to ensure that the erosion of the stored soils does not occur in heavy rainfall, which could potentially lead to surface water problems off-site. As agreed by the Flood Risk Project

Officer, this is for the applicant to decide if any issue becomes apparent, and there is no immediate concern in this respect. In this instance I consider it reasonable to add an informative advising the applicant of possible measures that could be taken if necessary.

11.03 The Agricultural Advisor is satisfied that this development would not involve any long-term impact on, or loss of, agricultural land, and so I raise no objection in this respect.

## **12.0 Conclusion**

12.01 The issues raised by Councillor Newton, Otham Parish Council and neighbours have been dealt with in the main body of this report. However, I would add that the agent has explained that the top soil has already been identified for donor sites, and the reason for the 3 year period is so that they do not run out of time to move the soil as some of the sites are very tight for storage. It should also be noted that it is not unusual for further negotiations to be undertaken between the case officer and the applicant during the life of a planning application.

12.02 Whilst being a departure from the Development Plan due to the visual harm caused, the visual harm would be for a limited 3 year period and it is considered that the harm is acceptable for that period. Otherwise the scheme is acceptable in terms of its impact on residential amenity; highway safety and in landscaping/ecological terms. For the above reasons, it is therefore considered acceptable to depart from the Development Plan in this instance. I therefore recommend conditional approval of the application on this basis.

### **RECOMMENDATION – APPROVE with conditions:**

(1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, the topsoil heaps, fencing and any other associated paraphernalia shall be removed from the land, and the land restored to its former condition before the development took place;

Reason: To prevent inappropriate development in the countryside.

(2) Within one month of the date of the permission hereby granted, measures for the protection of the adjacent ancient semi natural woodland in accordance with BS5837:2012 (to include protective fencing and/or ground protection), shall be submitted to and approved in writing by the local planning authority. Within one month of the date of the details being approved, the protection measures shall be fully implemented and maintained as such for the duration of the temporary development hereby granted;

Reason: To ensure adequate protection of the adjacent ancient semi natural woodland.

- (3) No topsoil shall be deposited within 15m of the adjacent ancient semi natural woodland unless otherwise agreed in writing by the local planning authority;

Reason: To ensure adequate protection of the adjacent ancient semi natural woodland.

- (4) Within three months of the date of the permission hereby granted, a badger method statement produced by an ecologist shall be submitted to and approved in writing by the local planning authority and shall detail the following;

- i) That a badger survey will be carried out prior to any of the earth piles being moved/impacted; and
- ii) Details of mitigation that will be implemented if a badger sett is identified.

The approved details shall be fully implemented every time any of the earth piles are moved/impacted for the duration of the temporary development hereby granted;

Reason: In the interest of biodiversity.

- (5) No topsoil pile shall exceed 5m in height from ground level;

Reason: In the interest of biodiversity.

- (6) There shall be no more topsoil deposits made on site.

Reason: In the interest of visual amenity.

- (7) All lorry movements to and from the proposal site shall only be undertaken with a banksman in attendance.

Reason: In the interests of highway safety.

- (8) The development hereby permitted shall be carried out in accordance with plan reference SUTT/001 received 28/08/15; and the Materials Management Plan and Construction Management plan received 18/09/15;

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

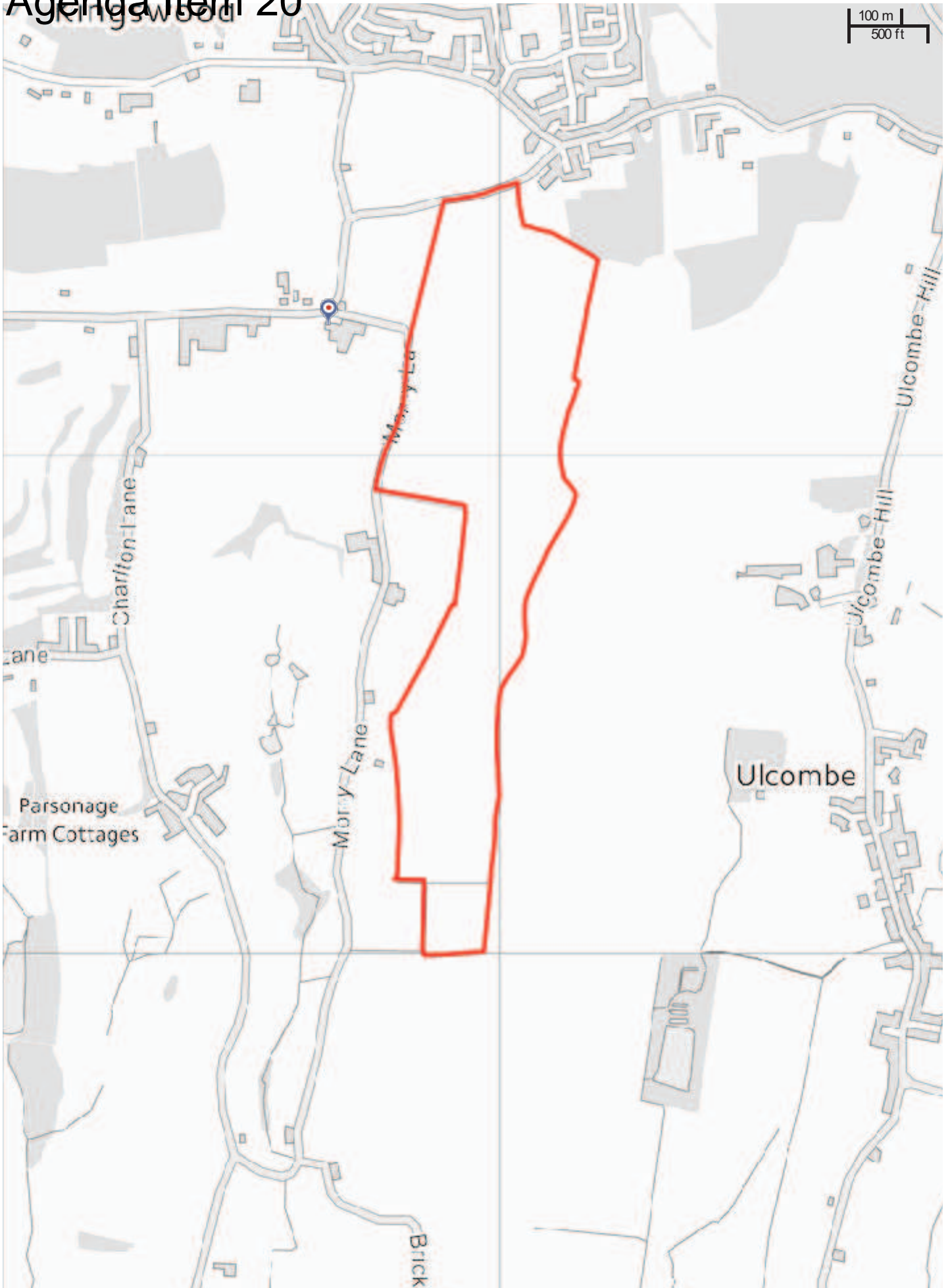
## INFORMATIVES

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- (2) The applicant is reminded that they may be required to apply for other consents directly from the Environment Agency. The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and the Environment Agency have a regulatory role in issuing and monitoring them. The applicant should contact 03708 506 506 or consult their website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>.
- (3) The applicant is advised to put in to place measures to ensure erosion of the stored soils does not occur in heavy rainfall which could lead to problems off-site, such as planting a vegetated buffer strip around the outside of the topsoil mounds, and limit disturbance to when it needs moving and turning.

Case Officer: Kathryn Altieri

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

# Agenda Item 20



15/506897 - Morry Farm, Morry Lane

Scale: 1:10000

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**REPORT SUMMARY**

<b>REFERENCE NO - 15/506897/FULL</b>			
<b>APPLICATION PROPOSAL</b> Part retrospective application for the erection of polytunnels, drainage works and landscaping.			
<b>ADDRESS</b> Morry Farm Morry Lane East Sutton Kent ME17 3DR			
<b>RECOMMENDATION: Approve</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> This application is in accordance with ENV43 of the development plan and the National Planning Policy Framework			
<b>REASON FOR REFERRAL TO COMMITTEE</b> This application has been called to committee by Cllr Round			
<b>WARD</b> Headcorn	<b>PARISH/TOWN COUNCIL</b> East Sutton	<b>APPLICANT</b> F Edmead And Sons <b>AGENT</b> DHA Planning	
<b>DECISION DUE DATE</b> 27/11/15	<b>PUBLICITY EXPIRY DATE</b> 27/11/15	<b>OFFICER SITE VISIT DATE</b>	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/501626	Submission of Details pursuant to Condition 4 - Visual Amenity of MA/14/0097.	Pending	
14/0097	Retrospective application for siting of a static farm workers caravan including area of hardstanding and provision of cesspit as shown on drawings and photographs received on the 20th January 2014.	Permitted	11 <sup>th</sup> April 2014
11/0408	An application for prior notification of agricultural development being the construction of an earth embanked water storage reservoir with clay core as shown on the site location plan, plan view and cross-sections received on 16/03/11.	Permitted	5 <sup>th</sup> May 2011

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 This application site is located to the south of Chartway Street and to the east of Morry Lane, within the parish of East Sutton. The site area is 36.78ha.
- 1.02 The site is located on the south facing slope of the Greensand Ridge and the southern part of the site falls within the Special Landscape Area, which means that

saved Local Plan Policy ENV34 is of relevance. No other policy designations apply to this site.

- 1.03 It is understood that the whole farm extends approximately 85 hectares and has operated as a fruit/arable farm for 50 years.
- 1.04 Within the site is a distinct patchwork arrangement, with the twelve fields defined by hedgerow boundaries. To the north, along Chartway Street, is an established hedgerow boundary. The west of the site is Morry Lane, which is a narrow rural track. From this track, it is possible to obtain glimpses of the site through sections of the hedgerow, which is also very well established.
- 1.05 The site slopes upwards from south to north. The land level is approximately 65m at the southern point of the site, rising up to approximately 150m at the northern point of the site.
- 1.06 There are no TPOs on the site although there is an area of Ancient Woodland to the north east of the site.
- 1.07 There are a number of listed buildings along Morry Lane; a barn near Morry House (Grade II listed), Morry House (Grade II listed) and Walnut Tree Cottage (Grade II\* listed).
- 1.08 In addition, there are four public rights of way that cut across or run alongside the site and these are shown on drawing 10933-TS-02 P3. KH312 is towards the north of the site between fields 0124 and 9810 (neither of which have polytunnels). KH351 runs between fields 0178 and 8857 (neither of which have polytunnels), with a cobnut orchard to the north and an open field to the south. The southern boundary of this open field is defined by a poplar shelter belt. KH350 runs between two fields of polytunnels and towards Walnut Tree Farm (Grade II\* listed) on the west. During the process of this application, as a result of planning officer concerns, the scale of this element of the proposal has been reduced in order to improve the visibility of the Grade II\* listed building. KH320 runs along the southern boundary of the site, which currently has polytunnels to the north and open fields to the south.

## **2.0 PROPOSAL**

- 2.1 This application is a retrospective application for polytunnels for soft fruit production on the above site. As shown on drawing 10933-TS-02 P33, the polytunnels on fields 9542 (Field 1), 0393 (Field 5), 0178 (Field 7), 8939 (Field 10 north), 8827 (Field 10 south) and 9107 (Field 12) are existing. The polytunnels on field 8598 (Field 4) are proposed.
- 2.2 The proposal also includes tree and hedgerow planting and the construction of a French drainage system at the southern boundary of each field
- 2.3 As shown on drawing 10933-TS-02 P3, the two rows of tunnels in fields 8939 and 8827 have already been removed, with the posts still in place. In addition, it is proposed to remove a corner of the polytunnels in field 8939 in order to improve visibility of the Grade II\* listed building. This amendment was at the request of MBC.
- 2.4 The polytunnels will be covered from March through to the end of October. From November to the beginning of March, the tunnels will remain uncovered. The metal framework, however, will remain in place all year.

- 2.5 The proposal also incorporates a series of French drains, which are shown on drawing 10933-D-02 P1. Infiltration trench/cut off drains are shown at the south of Fields 9107, 9722, 8619, 8827, 8857, 0178, 0393, 8598, 9810, 0124 and 9542 and Chartway Street.
- 2.6 The proposed planting for this proposal is shown by Figure 3 of the Landscape and Visual Assessment. It demonstrates that the existing perimeter vegetation, including all the hedgerows tree lines along the site boundaries will be retained. The existing hedgerows or shelter belts that have been trimmed to a low level will be allowed to grow back heights of 3-4m in the case of roadside hedges and 6-8m in the case of Poplar shelter belts.
- 2.7 In addition, new lengths of hedgerow and intermittent trees where there is no current boundary vegetation will be planted. This will include the southern boundary of Field 9107 (at the far south) and the western boundary of Field 8857, which would divide an existing larger field in two.
- 2.8 Existing boundaries would be strengthened with additional hedgerow planting to fill in any localised gaps in the boundaries.
- 2.9 The species would be native and locally appropriate, and this could be secured by way of planning condition.
- 2.10 The polytunnel frames would reach a maximum height of 3.75m and a width of 7.8m.

**3.0 PLANNING CONSTRAINTS**

Listed buildings within close proximity to the site;

- Barn near Morry House (Grade II)
- Morry House (Grade II)
- Walnut Tree Cottage (Grade II\*)

An area of Ancient Woodland protected by TPO is located to the north east corner of the site, outside of the site boundary.

Public Right of Way KH351; KH350; KH312; KH344; KH320;

**4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
 National Planning Practice Guidance (NPPG)  
 Development Plan: ENV26; ENV28; ENV34; ENV43  
 Supplementary Planning Documents:

**5.0 LOCAL REPRESENTATIONS**

			COMMENTS RECEIVED
East Council	Sutton Council	Parish Council	The Parish Council resolved that the application be approved and that the conditions that the Parish Council placed on the previous recommendation apply to this one. They did not wish to go to Committee

	<p>1. The roadways are made of appropriate surfacing                  2. Efficient rainwater disposal to be incorporated so as not to affect neighbouring properties, land and highways.                  3. Highways to be kept clear of all mud and waste                  4. Environmental impact to be kept to a minimum by regular collection and disposal of litter and waste in the correct manner.</p> <p>(dated 10<sup>th</sup> March 2016)</p>
Broomfield and Kingswood Parish Council (neighbouring parish)	<p>Councillors are happy to approve this application with the following conditions:-</p> <p>1 That the polytunnels have a distance from the boundary of the field along Chartway Street.                  2 That adequate drainage is installed to prevent the flooding of Chartway Street currently being experienced regularly, (since the polytunnels have been erected).                  3 That the drainage is approved by KCC Highways as being adequate to prevent flooding as experienced. (dated 19<sup>th</sup> January 2016)</p>
Residential Objections Number received: 7	<ul style="list-style-type: none"> <li>- Impact on the setting of listed buildings, including a Grade II* listed building;</li> <li>- Detrimental impact on the views from Walnut Tree Cottage to Greensand Ridge</li> <li>- Detrimental impact on views from the south and the west.</li> <li>- Contrary to Defra's advice relating to the location of polytunnels;</li> <li>- 1970s extension of Walnut Tree Cottage has not been included in the site plan;</li> <li>- Ecological concerns relating to bats and badgers;</li> <li>- Retrospective nature of the application;</li> <li>- Industrialisation of the site, particularly with the heavy traffic;</li> <li>- Noise caused by the additional traffic resulting from number of workers;</li> <li>- Impact on the road surface on Morry Lane causing additional mud and erosion of verges;</li> <li>- Flood risk caused by plastic polytunnels;</li> <li>- Surface water on the roads may cause a risk to homes and road users;</li> <li>- Detrimental visual impact on open countryside;</li> <li>- Loss of trees.</li> <li>- Loss of privacy as a result of additional workers on the farm;</li> <li>- The workers on the farm are not local.</li> </ul>
Residential Support Number received: 0	

**6.0 CONSULTATIONS**

**6.1 KCC Highways (dated 3<sup>rd</sup> September 2015): No objection**

*“Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.”*

**6.2 Natural England (dated 4<sup>th</sup> September 2015): No objection**

*Natural England has no comments to make on this application.*

*The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.*

**6.3 Environment Agency (dated 8<sup>th</sup> September 2015): No objection**

*We have assessed this application as having a low environmental risk. We therefore have no comments to make. We however advise that you contact Kent County Council, as Lead Local Flood Authority, for their comments on surface water drainage.*

*Non planning consents: Although we have no comments on this planning application, the applicant may be required to apply for other consents directly from us. The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and we have a regulatory role in issuing and monitoring them. The applicant should contact 03708 506 506 or consult our website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>*

**6.4 KCC Ecology (dated 22<sup>nd</sup> January 2016): No objection subject to conditions**

*No ecological surveys have been carried out as part of this planning application and to assess the potential ecological impact from the proposed development we have reviewed the site using aerial photos, biological records and the information submitted with the planning application.*

*The proposed development will be located on arable fields. There are field margins within the proposed development which, we understand from the submitted information, provide suitable habitat for protected/notable species such as reptiles or breeding birds. However, the applicant has confirmed that the construction of the polytunnels or the proposed drains will not directly impact the field margins*

*As the polytunnels will not be located on or impact the field margins we are satisfied that the potential ecological impacts will be avoided so, on this occasion, there is no requirement for an ecological survey to be carried out. This advice is supported by ODPM 06/2005, cited above, which goes on to state that "developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development."*

*We are aware that a number of the polytunnels are already present within the site and part of the application is for retrospective planning permission. We advise that even if this application had not been part retrospective our comments would have remained the same.*

*The information submitted with the planning application details that trees/hedges will be planted within the site to provide ecological enhancements. This is in addition to the existing field margins which will be retained as part of the planning application. The specification for soft landscape and maintenance work document provides details of the establishment of any new planting but it does not provide any long term details of how these areas will be managed.*

*We advise that if planning permission is granted the submission and implementation of a habitat management plan for these areas is secured by condition. We have been provided information by a member of the public which states that badger setts are present within and adjacent to the site. From reviewing the information it appears that the footprint of the existing and proposed polytunnels or existing trackway will not directly impact any badger setts.*

*It is our view that the presence of polytunnels will not prevent or deter badgers from foraging within the site and the proposed enhancements (as detailed above) are likely to increase the availability of foraging habitat. No lighting is proposed for the development so there will be no artificial lighting to disturb foraging badgers.*

*The presence of badgers in an area will fluctuate, with new setts created and others falling into disuse. The locations of active badger setts may change over time and there is a need to ensure that the construction works and operational phases do not impact any setts.*

*As a precaution, we recommend that the setts are protected from damage and disturbance (e.g. vehicles, storage of spoil/waste) during construction – for example using hazard tape.*

*The applicant should be reminded of the legal protection afforded to badgers and their setts under the Protection of Badgers Act 1992; this could be provided as an informative, if planning permission is granted.*

#### **6.5 Rural Planning Limited (dated 7<sup>th</sup> September 2015): No objection**

*I refer to your letter of 02 September 2015 requesting agricultural advice on the partly retrospective planning application submitted on behalf of F Edmed and Sons for the erection of some 27ha of polytunnels for soft fruit production at the above site (of which 12.3 ha have been erected already).*

*Messrs Edmed are long-established farmers in this location and also nearby at Street Farm (south of Chartway Street) where they have also diversified into the production and distribution of packaging materials for handling fruit, and into the production of essential herbal oils. Street Farm also has a farm shop. The overall farm holding extends to some 85 ha with cropping including soft fruit, low-trellis hops, cobnuts, rhubarb, lavender and arable land.*

*As indicated in the applicants' Planning Statement, it has been recognised for some years now that the use of polytunnels is now a necessary part of modern soft fruit production and has been allowed on various holdings in the Borough, and elsewhere in the County, subject to the appropriate choice of sites, and to applying appropriate conditions, including allowable periods of tunnel coverage (March to October would be appropriate in the current case). The tunnels comprise units of production in themselves, and in effect can be regarded as inherently required and appropriate for the purpose of modern UK soft fruit production.*

*As explained in the applicant's agent's report, the system has a number of advantages over conventional unprotected growing including the ability to protect crops from the wind and rain, reduce pesticide/ fungicide use, extend the growing season, provide better yields and continuity of supply, and greater ease of managing the plants and picking the fruits. The use of tunnels assists UK growers to meet customer demand as opposed to what might be regarded as the less sustainable alternative of foreign imports.*

#### **6.6 KCC Flood Risk Team (dated 18<sup>th</sup> December 2015)**

*We note that additional soakage testing has been undertaken on site to demonstrate the soakage potential of the soils beneath the site. Whilst the testing has not been carried out in strict accordance with BRE 365 (to re-fill each pit three times, and to test at the proposed soakage depths), it demonstrates the variance of soakage potential across the site. In practice actual soakage rates may be lower than those attained within a single test, but it is recognised that the polytunnels will only be covered during the times of year when the near surface ground is less likely to be saturated.*

*The FRA notes the placement of gravel filled pipes to interrupt channelled flows where the polytunnels sheets meet will also have the effect of promoting infiltration beneath the tunnels, reducing the volumes reaching the cut-off drains, and grass buffer strips are to be provided to provide silt control. It is important that these areas are maintained and not trafficked by farm vehicles to protect against damage and avoid the creation of rut's which can have the effect of channelling water away from the infiltration trenches and increasing the likelihood of silting up occurring. We would request some proposals for a maintenance regime for the buffer strips and drainage assets themselves is provided to ensure that the systems continue to be effective in the longer term.*

*As a deep soakaway is proposed for the northern part of the site, we would recommend that the Environment Agency's groundwater protection team are contacted to ensure they are content with the proposed system layout and proposed controls against pollution and silting. We would strongly recommend that the deep soakaway is location 10m away from any adjacent highway and shallower infiltration features 5m away from adjacent highways to mitigate risks of ground movement associated with use of soakaways in the Hythe Formation.*

*Accordingly, should your Authority be minded to grant permission to this development, we would request that the following Conditions are still attached as per our original correspondence (with the recently submitted information in part discharging the first condition on the basis of the above comments):*

*Conditions:*

- (i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. Ground investigations and infiltration testing should be undertaken to demonstrate the development does not increase off-site flood risk (during any rainfall events up to and including the climate change adjusted 100yr critical storm).*
- (ii) Development shall not begin until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.*

*Those details shall include:*

- i) a timetable for its implementation, and*
- ii) a management and maintenance plan for the lifetime of the development.*

*Reason:*

*To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.*

*Condition:*

*No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.*

*Reason:*

*To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.*

#### **6.7 KCC Public Rights of Way (dated 15<sup>th</sup> December 2015)**

*The development site is crossed by several Public Rights of Way including Public Footpath KH312, Public footpath KH350, Public footpath K320 and Public bridleway KH351. Both KH320 and KH351 are also promoted routes. The location of these Public Rights of Way are indicated on the attached map extract. The existence of the right of way is a material consideration.*

*The Definitive Map and Statement provide conclusive evidence at law of the existence and alignment of Public Rights of Way. While the Definitive Map is the legal record, it does not preclude the existence of higher rights, or rights of way not recorded on it.*

*Thank-you for the requested amended plan showing the Existing Proposed Tunnels shown in relation to the PROW network.*

*Public footpath KH312 is unaffected by the development.*

*Part of Public Bridleway KH351 is going to be shared with farm traffic for approximately 155 metres. Care should be taken that a maintained surface suitable for horse riders and pedestrians is maintained throughout and on completion of the development. Any plans for improving or repairing the surface here should be submitted to this office for prior approval. On completion of the development agreement should be reached with this office that any damage affecting the path surface is repaired to sufficient standard to ensure public access.*

*Public footpath KH350 currently runs between tunnels 8939 and 8827 which are scheduled for removal at the end of the 2015 growing season. At present the footpath surface is damaged here for approximately 200 metres and the muddy conditions make the footpath difficult to use when wet even in appropriate footwear. I have observed the conditions here are poorer than the rest of the development site and so I assume have been affected by their proximity to existing polytunnels and the associated work and workers. There are several bins here without lids which I assume were used by workers and as they have no lids the rubbish has blown about. With the works planned to remove the tunnels here I assume the bins can be removed. This would be an appropriate time to ensure the site is returned to the rural*



*footpath across agricultural fields and for surface work to be added to improve pedestrian use. Again please contact this office for approval before arranging any surface repairs. If the footpath needs to be closed for the period of polytunnel removal, for public safety, please contact this office to arrange an official closure at least 8 weeks before the temporary closure is required.*

*Assuming these requested conditions are considered then I can remove my objection to the planning application*

*Please inform the applicant of the following General Informatives:-*

- 1. No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority.*
- 2. There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development without the permission of this office.*
- 3. There should be no close board fencing or similar structure over 1.2 metres erected which will block out the views.*
- 4. No hedging or shrubs should be planted within 1.0 metre of the edge of the Public Path.*
- 5. No Materials can be stored on the Right of Way.*

*Please also make sure that the applicant is made aware that the granting of planning permission confers on the developer no other permission or consent or right to close or divert any Public Right of Way at any time without the express permission of the Highway Authority.*

***(dated 14<sup>th</sup> September 2015)***

*Thank you for your letter received concerning Full Planning permission for the site indicated above. The development site is crossed by several Public Rights of Way including Public Footpath KH312, Public footpath KH350, Public footpath K320 and Public bridleway KH351. Both KH320 and KH351 are also promoted routes. The location of these Public Rights of Way are indicated on the attached map extract. The existence of the right of way is a material consideration.*

*The Definitive Map and Statement provide conclusive evidence at law of the existence and alignment of Public Rights of Way. While the Definitive Map is the legal record, it does not preclude the existence of higher rights, or rights of way not recorded on it.*

*Looking at the initial plans it would appear that the route KH350 is obstructed by the polytunnels labelled polygon 8827. Also the route of KH320 may be obstructed by polygon 9107 and KH351 by polygon 8857. In light of this I must object to the application.*

*I would ask that the applicant submit a plan to show the existing rights of way overdrawn on the existing and proposed tunnel plans. I would ask for detail showing that 2 clear metres minimum are to be left for all footpaths crossing the site. At points where the footpaths may be used for vehicular access or there are drainage issues, then the width between the polytunnels will need to be greater to avoid affecting use of the paths by pedestrians.*

*Alongside Public bridleway KH351 the tunnels should be set back from the edge of the path leaving a margin of 4 metres from the centre of the path. Particularly in the case of the bridleway KH351, the plastic must be securely fastened so there is no*

*flapping to disturb the horses. When the sheeting is removed it must not be left on the site to blow around but disposed of.*

*All of the routes must not be obstructed by support frames, plastic sheeting, growing beds, wires, boxes, equipment or vehicles. Services such as the irrigation pipes should be buried thus avoiding trip hazards. I would ask for a condition requiring welfare facilities to be provided when workers are present to prevent any fouling or misuse of hedgerows and for all rubbish generated by the workers to be removed from site.*

**6.8 KCC Archaeology (dated 21<sup>st</sup> September 2015)**

*No comments.*

**6.9 Southern Water (dated 11th September 2015)**

*The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS).*

*Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the drainage facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.*

*Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:*

- Specify the responsibilities of each party for the implementation of the SUDS scheme*
- Specify a timetable for implementation*
- Provide a management and maintenance plan for the lifetime of the development.*

*This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.*

*Due to changes in legislation that came into force on 1<sup>st</sup> October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.*

**6.10 MBC Landscaping (dated 15<sup>th</sup> March 2016)**

*The amended information does not change the general views expressed in my consultation response email dated 29 September 2015. However, I would just add that the location of the proposed deep bore soakaway at the northern end of the side adjacent to Chartway Street could potentially have an adverse effect on adjacent hedgerow and trees but it is not clear from the detail submitted whether this is the case. This detail can be provided by condition or simply by a statement confirming that the line of the trenching would be located outside of root protection areas.*

*[It has been confirmed in writing by the applicant that the proposed soak away and drainage trench will be located immediately next to the north end of the tunnels well beyond the existing tree/hedgerow and the root protection area located on the north boundary of the field next to Chartway Street]*

**(dated 29<sup>th</sup> September 2015)**

*There are no protected trees on or adjacent to, the location of the proposal although there are likely to be 'important' hedgerows marking field boundaries. Kingswood South, adjacent to the northeast corner of the site, is designated as ancient semi natural woodland and is protected by a Tree Preservation Order, TPO No.29 of 2009. Any significant trees and hedgerows are unlikely to be affected by the proposed development.*

*Landscape and Visual Impact Assessments (LVIAs) are used as a tool to assess the significance and effects of change resulting from development on the landscape as a resource in its own right, as well as on specific views and the visual amenity of receptors. This tool is normally used to inform a design or project so that any concerns can be addressed. However, the Landscape and Visual Assessment (LVA) produced by DHA Environment, dated August 2015 has been produced in support of an application which is part retrospective.*

*The assessment considers the general landscape character of the area. Additionally, the LVA appears to focus on short/medium range views and does not address the longer range views highlighted within the LCS. It also fails to address the views from two listed buildings, Morry House or Walnut Tree Cottage.*

*The submitted specification for soft landscape and maintenance works is acceptable in principle and the selection of species is largely appropriate, although there should generally be a predominance of Hazel (*Corylus avellana*) within the hedge mix of species. The use of White Poplar (*Populus alba*) should ideally be substituted by another native species which is more typical of the landscape character of the area. These aspects can clearly be dealt with through a pre commencement landscape condition should you be minded to grant permission for this proposal.*

**6.11 MBC Conservation (dated 8<sup>th</sup> March 2016)**

*The amended plans now submitted showing a reduction in the length of rows of polytunnels nearest to Walnut Tree would result in some improvement to the setting of the Grade II\* Listed Building sufficient to overcome my previous objections. If suitable screen planting took place on the western side of the field I consider that this would provide adequate mitigation for any remaining harm to the setting of the listed building.*

*I RAISE NO OBJECTION to this application on heritage grounds subject to a condition requiring the removal of the necessary polytunnels within 3 months and the submission of a landscaping scheme to include substantial screening to the west of the polytunnels in the field adjacent to Walnut Tree.*

**(dated 8<sup>th</sup> January 2016)**

*The polytunnels already erected in the field behind the Grade II\* listed Walnut Tree have some adverse impact on its setting, both when viewed from the adjacent public*

*footpath and from the wider view available from The South, close to the junction of Morry Lane and Brick Kiln Lane where both Walnut Tree and the polytunnels can be seen on the apparent ridge line. In my view the removal of the two closest rows of polytunnels to Walnut Tree, as now offered by the applicant, would not significantly improve the situation.*

*In my opinion these polytunnels cause harm to the significance of Walnut Tree by virtue of their visual impact on its setting. The level of harm is less than substantial and in accordance with the NPPF this needs to be weighed against any potential public benefit arising from the proposals.*

**6.12 Historic England (dated 22<sup>nd</sup> January and reiterated 9<sup>th</sup> March 2016)**

*The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.*

**6.13 Environmental Health (dated 23<sup>rd</sup> December 2015)**

*I have no objection to this application*

**7.0 APPRAISAL**

7.1 When determining this application it is necessary to consider the benefits of this form of agriculture, the visual impact in this countryside location (short and long term views), the impact on the setting of listed buildings, the ecological impacts, the flood risk, the highways impact, the impact on neighbours' amenity and the acceptability of the landscaping proposed. In addition, concerns have been raised in relation to the retrospective nature of this application.

**Principle of Development**

7.2 This site is located within the countryside beyond the defined bounds of any settlement, which means that saved Policy ENV28 is of relevance. The southern part of the site falls within the Special Landscape Area, which means that saved Local Plan Policy ENV34 is also of relevance.

7.3 Development in the countryside is restricted by the above policies, which emphasise the importance of the visual appearance of countryside locations. As an exception to the general theme of restraint within the adopted Local Plan, however, is Policy ENV43. This policy recognises the importance of farming to the economic and environmental well-being of the countryside. It states that new agricultural buildings on agricultural land will be permitted provided that the proposals are reasonably necessary for agriculture; the buildings are located within an existing group of buildings or in a location that minimises the impact on the character and appearance of the countryside; the proposal is accompanied by a landscaping scheme; it is of a sympathetic design; it does not have an adverse impact on the character or setting of local settlements or amenity of existing residents; the proposal is compatible with the landscape policies and the proposal will not have an adverse impact on the local highway network.

7.4 In terms of land use in this location, it is necessary to balance the needs of agriculture against the impact of the proposals.

### **Agricultural Need**

- 7.5 When considering the need for development, Rural Planning Ltd, provided the following statement:

*“As indicated in the applicants' Planning Statement, it has been recognised for some years now that the use of polytunnels is now a necessary part of modern soft fruit production and has been allowed on various holdings in the Borough, and elsewhere in the County, subject to the appropriate choice of sites, and to applying appropriate conditions, including allowable periods of tunnel coverage (March to October would be appropriate in the current case). The tunnels comprise units of production in themselves, and in effect can be regarded as inherently required and appropriate for the purpose of modern UK soft fruit production.*

*As explained in the applicant's agent's report, the system has a number of advantages over conventional unprotected growing including the ability to protect crops from the wind and rain, reduce pesticide/ fungicide use, extend the growing season, provide better yields and continuity of supply, and greater ease of managing the plants and picking the fruits. The use of tunnels assists UK growers to meet customer demand as opposed to what might be regarded as the less sustainable alternative of foreign imports.”*

- 7.6 I therefore consider there is a reasonable need for the development in line with ENV43. I consider, therefore that the overarching question is whether the harm to the appearance of the countryside is so great as to outweigh the agricultural need for this development and this will be assessed in this report.

### **Visual Impact to open countryside and landscaping**

- 7.7 The existing and proposed development constitutes substantial blocks of polytunnels that are visible both in short and medium range views.

#### *Views from Chartway Street*

- 7.8 Immediately to the south of Chartway Street is the western section of Field 1, which has existing polytunnels in place. These polytunnels are partially visible from Chartway Street, being approximately 8m from the roadside boundary, and can be seen from gaps in the roadside hedge in certain locations, which is defined by a tall hedgerow of approximately 6m in height. The traffic on this road travels at the national speed limit and there is no footpath in this location. As a result, the views from this location are fleeting.
- 7.9 Chartway Street bends round to the south, which is approximately 100m from the polytunnels. The polytunnels are again visible from this location. The proposal incorporates a new hedgerow to be planted to the west of Field 1, which would reduce these views from this location.
- 7.10 I would consider that with additional planting along this roadside location to the north and the new hedgerow to the west of Field 1, the landscaping screening would be sufficient to reduce the harm in this location to an acceptable level alongside these roadside locations.

#### *Views from Morry Lane*

- 7.11 From Morry Lane to the west of the site, it is also possible to see glimpses of the polytunnels from the road. Morry Lane bends round to the south at the corner of Field 2 and from this point it is possible to see the polytunnels in Field 1 through the existing hedgerow in place. With additional planting to the hedgerow at the south of Field 1, however, I am satisfied that the harm could be satisfactorily reduced.
- 7.12 The proposed polytunnels in Field 4 would be directly adjacent to the road, with a separation distance of approximately 6m. The continuity of the screening in this place is currently considered to be satisfactory to limit the views. In addition, it is proposed to allow the hedges to grow to a height of 3-4m and maintained at this height thereafter. With this level of screening, I consider that the harm would be reduced to an acceptable level.
- 7.13 Further to the south of Field 4, the existing polytunnels are set further from the road, which limits the visibility from this location as a result of the 80m set back and the increased land levels on which they are located. Furthermore additional planting is proposed on the western boundary of fields 7, 9, 10, 11 and 12 and this would have the effect of reducing the visibility further.
- 7.14 I am satisfied that with an appropriate landscaping condition to secure the proposed screening, the level of harm from Morry Lane would be not be unacceptable.

*Views from Footpaths within site*

- 7.15 A number of footpaths pass through the site from east to west. KH312 passes between two fields in which polytunnels are not located or proposed. An established tree line of Poplar is located to the north of this footpath and again at the south of the field to the south. I am satisfied that, given the distances to the polytunnels (which would be over 100m from any point), this would provide the necessary screening from this footpath to make the proposals acceptable.
- 7.16 Footpath KH351, the Greensand Way, also does not pass between fields of polytunnels. To the north is a cobnut orchard, which provides sufficient screening from the polytunnels beyond. To the southern boundary of the field to the south (200m) is a tree line of Poplar, which again provide sufficient screening to the polytunnels beyond.
- 7.17 Footpath KH350 passes between two fields of polytunnels for a stretch of approximately 160m and a separation distance of approximately 16m. Although these polytunnels are not able to be screened in this location, I consider that the visual harm would not be reason to refuse the application. This is a modern practice of agriculture, which is not uncommon in the Borough and not something that would appear incongruous on an operating farm. For a relatively short stretch of public footpath, therefore, I would consider that this would be, on balance, acceptable.
- 7.18 In addition to the visual harm from the footpath, it must be noted that this stretch of KH350 has been subjected to damage as a result of the work involved in the erection of the polytunnel frames. As this work has now been complete, this footpath will need to be returned to its former standard so that it can be usable by walkers on the footpath. I am satisfied that these improvements can be secured by way of condition. In addition, the workers on these fields appear to have been using open-topped bins alongside the footpath, which have resulted in litter. These would need to be replaced with more secure refuse facilities within the site in order to keep litter secure.

*Views from Brick Kiln Lane (south of the site)*

- 7.19 As a result of the slope of the land in this area, sections of the site can be seen from further afield, this includes views from Brick Kiln Lane, which is approximately 530m to the south.
- 7.20 It is possible to see the existing hedgerows within the site, which mark the field boundaries, typical of this Kentish landscape. The proposals incorporate additional new planting around some of the field margins, in areas where the existing screening is thinner or where there are gaps. The purpose of this is to provide a more effective screen to the polytunnels and to reinforce the character of the patchwork fields.
- 7.21 The combination of fields of polytunnels, orchards and open fields soften the overall impact of the proposals so that the visual impact from this location is reduced. It is possible to see the polytunnels in fields 12 and 10 only. The southern boundary of field 12, it is proposed, would be planted with an additional hedgerow. This would be protected by a 2m high green mesh windbreak to provide some immediate screening and to assist with the establishment of the planting. Whilst this would not screen the full extent of the polytunnels from this location, it would soften their impact to a level that I would deem acceptable.

*Views from Charlton Court (west of the site)*

- 7.22 Charlton Court, approximately 470m west of the polytunnels has distant views of the existing polytunnels on Field 10 as a result of the undulating land between the site and Charlton Court. The proposal incorporates additional hedgerow planting to the west of this field, which would go some way into screening the existing polytunnels to this field. From east to west, Field 10 appears to be relatively flat from this location and therefore the visual impact of the polytunnels is relatively limited. I would consider that the screening proposed would reduce the impact to a reasonable extent to warrant this proposal acceptable.

*Summary of visual impact*

- 7.23 The proposed planting would ensure that the short range views of the polytunnels would be screened insofar as possible. According to the MBC Landscape Officer, the submitted specification for soft landscape and maintenance works is acceptable in principle and the selection of species is largely appropriate, although there should generally be a predominance of Hazel (*Corylus avellana*) within the hedge mix of species. The use of White Poplar (*Populus alba*) should ideally be substituted by another native species which is more typical of the landscape character of the area. These aspects can clearly be dealt with through a pre commencement landscape condition.
- 7.24 The longer range views of the polytunnels would also be screened over time to a certain extent by the planting proposed to the field margins. A new hedgerow is proposed to the southern boundary of field 12 and to the western boundary of field 9, which would reduce the intervisibility between the site and properties to the south and west. It must be noted that the plastic sheeting is only proposed to be up for a period of 8 months a year (March – October), which is when the leaves are normally on the trees. As such, I am satisfied that the screening proposed would reduce the visual impact of the proposals as far as is practicable.

- 7.25 In summary, whilst there would inevitably be a visual impact on this countryside location, I am satisfied that this will be reduced by appropriate screening and the removal of the plastic sheeting during winter months.

#### **Impact on setting of listed buildings**

- 7.26 During the course of this planning application, the applicant has responded to comments raised by the planning and conservation officers to improve the scheme. The scale of the proposed polytunnels has, as a result, been reduced and some of the existing polytunnels are now proposed to be removed.
- 7.27 Of particular importance, was the view of Walnut Tree Cottage from footpath KH350, which runs to the south of the Grade II\* listed building. It is now proposed to remove the polytunnels in the south west corner of field 8939. This would increase the visibility of the listed building from this public vantage point, which can be secured by way of condition.
- 7.28 It has been agreed by the MBC Conservation Officer that the amended plans now result in some improvement to the setting of the Grade II\* Listed Building sufficient to overcome the previous objections. If suitable screen planting took place on the western side of the field it is considered that this would provide adequate mitigation for any remaining harm to the setting of the listed building, and this can be secured by way of condition.
- 7.29 This harm would be considered to amount to 'less than substantial harm' in terms of the NPPF. This means that the harm should be weighed against the public benefits of the proposal. I would consider, that on balance the revised proposals would be acceptable in terms of the NPPF.
- 7.30 There are two other listed buildings (Grade II) on Morry Lane, which although are in close proximity to the site, would not be materially affected by the polytunnels.
- 7.31 Based on the consultation response from Historic England, the application should be determined in accordance with national and local policy guidance, and on the basis of the specialist conservation advice. As a result, I am satisfied that this proposal is acceptable in terms of conservation.

#### **Ecological Impacts**

- 7.32 As has been confirmed by KCC Ecology, the field margins within the proposed development provide suitable habitat for protected and notable species, such as reptiles and breeding birds. Both the existing polytunnels, the proposed polytunnels and any proposed drains will be set away from these field margins so there would be no direct impact on such species.
- 7.33 As the polytunnels will not be located on or impact the field margins KCC Ecology are satisfied that the potential ecological impacts will be avoided so, on this occasion, there is no requirement for an ecological survey to be carried out. This advice is supported by ODPM 06/2005, cited above, which goes on to state that "developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development."
- 7.34 Further to the retention of the existing field margins, the trees and hedges that would be planted as part of this proposal, would provide ecological enhancements. The KCC Ecology Officer has indicated that a long term management scheme would be



required for the soft landscape and maintenance works, including details of habitat maintenance. This can be secured by way of a condition.

- 7.35 In terms of the badger setts that have been identified by a local resident, the KCC Ecology officer has indicated that the footprint of the existing and proposed polytunnels or existing trackway will not directly impact any badger setts. It is their view that the presence of polytunnels will not prevent or deter badgers from foraging within the site and the proposed enhancements (as detailed above) are likely to increase the availability of foraging habitat. No lighting is proposed for the development so there will be no artificial lighting to disturb foraging badgers.
- 7.36 The presence of badgers in an area will fluctuate, with new setts created and others falling into disuse. The locations of active badger setts may change over time and there is a need to ensure that the construction works and operational phases do not impact any setts and as a precaution, it is recommended that the setts are protected from damage and disturbance (e.g. vehicles, storage of spoil/waste) during construction – for example using hazard tape. This can be secured by way of condition.
- 7.37 I would consider that the distance of 12m from the polytunnels in Field 1 would be an adequate distance from the Ancient Woodland in the north east corner of the site to ensure that there would be no detrimental impact. There have been no objection from MBC Landscaping or KCC Ecology in this regard.

### **Highways Impacts**

- 7.38 Local objectors have raised concerns about the increased volume of traffic from buses and farm vehicles associated with the farm. It is claimed that this has increased the amount of mud on the road surface and has resulted in damage to the roadside verges along Morry Lane.
- 7.39 No change of use is proposed as part of this application and whilst I accept that Morry Lane is narrow and there is sometimes residual mud from the tyres of the fields, a reason for refusal based on buses and farm traffic would not be appropriate. This is a rural location surrounded by farms and therefore this type of activity is considered to be, on balance, acceptable.
- 7.40 There have been no objections from KCC Highways regarding this proposal.

### **Impact on neighbours amenity**

- 7.41 On residential amenity I note that there are several residential properties along Morry Lane and Chartway Street that are relatively close to the existing and proposed polytunnels. It is therefore necessary to assess the impact of the development in terms of loss of daylight, sunlight and privacy. I also note that there have been concerns relating to noise and a loss of outlook.
- 7.42 Whilst the visual impact of the countryside is a planning consideration, it must be noted that the right to a view is not.
- 7.43 I would consider that the proposed development would be of a sufficient distance from the proposals so that it would not cause harm to the outlook.
- 7.44 The polytunnels would be at low level and would therefore not result in any overshadowing to the living spaces of the properties in the nearby dwellings.

- 7.45 Walnut Tree Cottage is the property that would experience the greatest visual impact as the house would be approximately 32m from the polytunnels in the adjacent field. It must be noted that the site plan submitted does not include the 1970s extension to the property, but this has been included in the officer assessment. I am satisfied, on balance that the existing screening and the proposed landscaping enhancement would act as a satisfactory screening that would reduce the intervisibility. It would therefore not amount to a reason for refusal.
- 7.46 I accept that with the intensified use of the land will come additional farm workers and as a result there may be associated noise disturbances, but I do not consider they would be of such a scale that would warrant this application unacceptable. This is an operating farm and therefore one would expect to find farm workers and farming activities on the land.
- 7.47 Based on the above, I am therefore satisfied that the noise and disturbance, loss of privacy from people working on the land, incidence of litter etc would not be so great as to warrant a reason for refusal.

### **Flood Risk**

- 7.48 This site is not located within Flood Zone 2 or 3 and so the risk of flooding is low.
- 7.49 It is, however, necessary to consider the impact the polytunnels would have on the surface water drainage in this location. It has been agreed by KCC that the testing carried out on the soils demonstrates an acceptable soakage level across the site. This would particularly be the case as the polytunnels are only proposed to be covered for the part of the year when the ground is less likely to be saturated.
- 7.50 The proposal incorporates gravel filled pipes (French drains) and these have agreed to be acceptable in principle by KCC in order to promote infiltration, providing they are maintained throughout the course of development. The details of this drainage and the associated maintenance is something that can be secured by a condition.

## **8.0 CONCLUSION**

- 8.1 Although the proposals will result in a change to the visual appearance of the landscape, this would be outweighed by the benefits to agriculture, which would support the rural economy.
- 8.2 I would consider that the proposals are in line with Policy ENV43 in that they are necessary for agriculture, they have been sufficiently screened to minimise the visual impact on the countryside, a landscaping plan demonstrates the proposed landscaping in the area, the proposal will not result in any adverse impact to the amenity of existing residents and will not have an impact on the local highway network.
- 8.3 In terms of the impact on Grade II and II\* listed buildings, I would consider that the amendments proposed would ensure that the harm is less than substantial and therefore outweighed by the benefits brought by this form of agricultural production.
- 8.4 The proposed screening in the form of tree and hedgerow planting would ensure the visual impact is reduced as far as possible from short and longer range views.

- 8.5 The ecological protection and the drainage proposals are considered to be acceptable and the details of these can be secured by way of a condition.
- 8.6 As a result of the above, this proposal would therefore be in accordance with the development plan and the provisions of the NPPF and ENV43 of the Maidstone Borough Wide Local Plan 2000.

**RECOMMENDATION** – GRANT Subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Existing and Proposed Tunnels (10933-TS-02 P3); Hedgerow/field margins plan (10933-TS-03 P2); Polytunnel axonometric elevation (DHA\_10933\_01)

Reason: To ensure the quality of the development is maintained and to prevent harm to the open countryside and special landscape area.

3. Within three months of the date of this permission, a habitat management plan shall be submitted, and in agreed in writing by the Local Planning Authority. This must include details of how active badger setts will be protected from construction works and operational development. It must demonstrate how the use of pesticides and herbicides shall be prevented on the field margins outside the polytunnels. The details of this document shall thereafter be complied with.

Reason: For reasons of ecological protection.

4. If the polytunnels (or sections thereof) are permanently no longer required for agriculture then those polytunnels (or the sections thereof) shall be removed from the land within 4 months of the cessation of their use;

Reason: In order to avoid unnecessary retention of structures that are no longer needed and in the interests of visual amenity.

5. Within three months of the date of this permission and prior to any additional construction and operational development, the following information must be submitted and agreed in writing by the local planning authority:
  - (i) a detailed sustainable surface water drainage scheme for the site. Ground investigations and infiltration testing should be undertaken to demonstrate the development does not increase off-site flood risk (during any rainfall events up to and including the climate change adjusted 100yr critical storm).
  - (ii) details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented within 3 months of the

approved drainage scheme and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

6. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

7. Within 3 months of the date of this permission, and in consultation with KCC PROW, details of proposed surface repairs to Footpaths KH350 and KH351 shall be submitted and approved in writing by the Local Planning Authority. The agreed proposals shall be implemented within 3 months of approval and retained as such thereafter.

Reason: In the interest of public access

8. The planting proposed in the Landscape and Visual Assessment (Ref JE/10933) and the Specification for Soft Landscape and Maintenance Works (dated August 2015) shall be adhered to. Details of the additional planting must be submitted within three months of this permission. This additional native planting proposed shall be in line with the principles of the Maidstone Landscape Guidelines and will include infill planting to any gaps to the existing hedgerow to the northern and southern boundaries of Field 1. It will also incorporate additional planting to the western boundary of Field 10, adjacent to the boundary with Walnut Tree Cottage (Grade II\*).

All planting or seeding shall be carried out in the first planting and seeding season following this permission (or such other period as may be agreed in writing by the Local Planning Authority) and any trees or plants which within a period of 5 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 that the proposed development is satisfactorily integrated with its immediate surroundings and provides for adequate protection of trees.

9. Within 3 months of the date of this permission, details of satisfactory facilities for the storage of refuse on the site must be submitted to, and approved in writing by the Local Planning Authority. The approved facilities shall be provided within three months of this approval and maintained thereafter.

Reason: In the interests of amenity

10. The polytunnels hereby permitted shall only be covered with polythene between 1<sup>st</sup> March to 31st October each year unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity.

11. The rows of tunnels demonstrated for removal at the end of the 2015 growing season and those proposed to be removed to maintain views to Walnut Tree Cottage on Drawing 10933-TS—02 Rev P3, shall be removed within 3 months of this permission. This includes the frame and polythene covering.

Reason: In the reasons of visual amenity

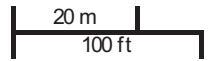
## INFORMATIVES

1. No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority. There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development without the permission of KCC.

Case Officer: Flora MacLeod

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

# Agenda Item 21



15/5100253 - Caledonia, Workhouse Lane

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**REPORT SUMMARY**

<b>REFERENCE NO - 15/510023/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use to garden land and erection of outbuilding incidental to dwelling house			
<b>ADDRESS</b> Caledonia Workhouse Lane East Farleigh Kent ME15 0QB			
<b>RECOMMENDATION – Approval</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development is considered to comply with the policies of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework, and there are no overriding material considerations to indicate a refusal of planning consent.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Requested by East Farleigh Parish Council that the application is reported to planning committee in the event of an officer recommendation for approval.			
<b>WARD</b> Coxheath And Hunton Ward	<b>PARISH/TOWN COUNCIL</b> East Farleigh	<b>APPLICANT</b> Mr Martin Wokes <b>AGENT</b>	
<b>DECISION DUE DATE</b> 22/01/16	<b>PUBLICITY EXPIRY DATE</b> 22/03/16	<b>OFFICER SITE VISIT DATE</b> 15/12/2015	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
15/505699/LAWP RO	An application for a certificate of lawful development for a proposed development being erection of outbuilding incidental to dwelling house – Refused – Appeal in Process (15/500202/REF)	Refused	29/09/15
<i>Summarise Reasons</i>			
<ul style="list-style-type: none"> <li>• The land on which the proposed building is to be sited is not considered to have a lawful use as part of the curtilage of the dwellinghouse.</li> <li>• The proposed outbuilding would constitute a lavish leisure complex, which, due to its overall size and the number of facilities proposed would be excessive and would exceed what can reasonably be considered as incidental to the enjoyment of the dwellinghouse.</li> </ul>			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.1 The proposal site comprises a detached residential property with a detached garage/store situated along Workhouse Lane in the parish of East Farleigh. To the front of the dwelling is a driveway with parking provision for 3-4 parking spaces, and stairs which lead down to the dwelling which is set below the ground level along Workhouse Lane.

- 1.2 The site is located within the countryside and does not affect the setting or a listed building or conservation area. The road is characterised by detached dwellings of varying scale and designs fronting onto Workhouse Lane.
- 1.3 Apparent from my site visit the area where the proposed outbuilding will be situated has been cleared of any trees/large shrubbery. The land level steeply rises to the west and south of the site of the proposed outbuilding. To the east of the proposed outbuilding is an existing small domestic pond.
- 1.4 There is a public footpath (KM42) to the west of the site in close proximity to the boundary of the red outline as shown on the site location plan.

## **2.0 PROPOSAL**

- 2.1 The proposal is for the erection of an outbuilding in the land to the rear of the dwelling 'Caledonia'. There is no separate access to the proposed outbuilding.
- 2.2 The proposed outbuilding would provide a snooker area, tv/games area, bar with seating area, gym, bathroom & sauna in connection with the residential dwelling of 'Caledonia'.
- 2.3 The proposed outbuilding would be almost 'L' shaped and would have a maximum length of 13.1m and width of 13.1m, the proposal would have a pitched roof with an eaves height of 2.6m and maximum height of 3.95m. The building would have an external area of approximately 129m<sup>2</sup>. The proposal would be a timber clad single storey structure with a tiled roof.
- 2.4 The proposal is also seeks permission for the change of use of this land into garden land as part of Caledonia.

### **Background Information**

- 2.5 The original plans submitted showed a larger outbuilding which would have had a length and width of 14m and would have an area of approximately 144m<sup>2</sup>. After further negotiations, an amended scheme has been submitted.
- 2.6 The applicant has reduced the length and width of the building by 0.9m and has reduced the entrance area to the proposed outbuilding. The amended outbuilding will have an internal floorspace of approximately 117m<sup>2</sup> and external will have an area of approximately 129m<sup>2</sup>. Externally the area of the outbuilding has reduced by approximately 15m<sup>2</sup>. The applicant has also provided details of proposed planting to the north of the outbuilding, including a climbing vine and evergreen shrubs.

## **3.0 PLANNING CONSTRAINTS**

- 3.1 None

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: ENV28, H33  
Supplementary Planning Documents: Residential Extensions Supplementary Planning Document



## 5.0 LOCAL REPRESENTATIONS

5.1 East Farleigh Parish Council – Objects for the following summarised reasons;

- The proposal could easily be used as a dwelling due to its size and layout
- Overlooking of neighbouring properties
- The appearance of the building is not in keeping with the area.

5.2 2 neighbouring properties ( Gillmans, Ragdon ) have made 3 representations objecting to the following;

- The proposal could be used as a separate dwelling
- Due to rising land it would overlook neighbouring properties & the public footpath
- Inappropriate visual appearance for area

5.3 The applicant has made comments in response to the concerns raised above by the Parish Council and local residents.

## 6.0 CONSULTATIONS

6.1 Environmental Health – No objections

*'The applicant should be mindful that the application site is near to an area of former quarrying'*

## 7.0 APPRAISAL

### Principle of Development

7.1 Domestic outbuildings are acceptable subject to meeting the criteria set out in policy H33 of the local plan. I would consider the main considerations involved with this application are the potential impact on the existing dwelling, the impact upon the countryside and the streetscene and the impact upon neighbouring amenity and whether the proposal creates or is capable of being a separate dwelling.

### Background

7.2 It is noted that the size of the proposed building meets the criteria outlined as under Class E of Part 1 of Schedule 2 to the Town & Country Planning (General Permitted Development) Order to be considered permitted development.

7.3 However an application for a certificate of lawfulness for this outbuilding (reference; 15/505699/LAWPRO) was refused as it was considered the proposed outbuilding would not fall within the residential curtilage of Caledonia and that the size of the outbuilding and facilities included would exceed what can reasonably be considered as 'incidental' to the enjoyment of the dwellinghouse. This is the test considered for a development being permitted development, however these tests are not relevant for considering this planning application.

7.4 There is an on-going appeal regarding the refusal of a certificate of lawfulness for the proposed outbuilding (reference; 15/500202/REF)

### **Visual Impact**

- 7.6 The proposal is situated over 30m away from the dwelling and would be a single storey building constructed in a timber frame with a pitched tiled roof. The proposed outbuilding has been reduced in size and whilst it would be a large outbuilding it would be clearly subordinate to the two storey dwellinghouse. Given its distance from the main dwellinghouse and single storey nature I am satisfied it would not harmfully affect the existing house.
- 7.7 With regard to the streetscene, due to the difference in land levels and existence of the main dwelling and detached garage of Caledonia the proposal would not be easily visible from the streetscene along Workhouse Lane and as such would not significantly harm the character of the streetscene.
- 7.8 The land level to the west and south of the proposed outbuilding steeply rises, and is well-screened due to existing trees/shrubbery along this bank. The applicant has shown planting along the north side of the outbuilding which is proposed to mitigate the visual impact of the development from neighbouring properties.
- 7.9 There is a public footpath (KM42) to the west of the site, the footpath is on an elevated position in relation to the proposal site, which sits approximately 15m below the footpath. Due to the existing screening and difference in land levels there would be limited views of the proposed outbuilding.
- 7.10 Where the outbuilding is visible from public vantage points, it would be viewed in the context of other residential dwellings and domestic sheds, greenhouses evident in neighbouring sites. The proposed outbuilding would be larger than other outbuilding evident in neighbouring sites, however due to the level of screening and limited views from public vantage points I would consider that the proposal would not constitute incongruous development within the countryside.
- 7.11 The proposed change of use of the land to garden land would largely accommodate the proposed outbuilding. The land has been cleared of any existing trees/shrubbery and is well screened. I am satisfied the proposed change of use of the land would not result in harm to the character of the countryside.

### **Residential Amenity**

- 7.12 Policy H33 of the Maidstone Borough-Wide Local Plan (Adopted 2000) states that the Borough Council will not permit developments in the countryside that result in an unacceptable loss of amenity or privacy for adjoining residential property.
- 7.13 The neighbouring properties to the north of the proposal site are detached dwellings with large gardens, and there is at least a 35m gap between these properties and the proposed outbuilding. Along the elevation which faces these neighbours there are no windows proposed and therefore the proposal would not overlook these neighbouring properties, as such I am satisfied the proposed outbuilding would not cause any significant harm in terms of privacy.
- 7.14 There is an existing 1.8-2m close boarded fence running along the boundary line to the north, the outbuilding would project 1.5-2m above this fenceline and would also be set in 2.2m from the boundary. The applicant has shown landscaping along this boundary line which would mitigate the visual impact of the proposal. Due to the distance from these neighbouring properties and existing boundary treatments I am satisfied the proposal would not cause harm in terms of outlook or loss of light.

- 7.15 Regarding the neighbour 'Glen Clova' to the south of the dwelling, this neighbour is on an elevated position in comparison to Caledonia. The land level to the south of the proposed outbuilding steeply rises with trees & shrubbery. Given the different land levels, landscaping and distance away from the dwelling I am satisfied the proposal would not cause any harm to the amenities of this neighbouring property.

#### **Other Matters**

- 7.16 The proposed outbuilding is located in the land to the rear of the dwelling, situated at least 30m from the rear elevation of the host dwelling. The issue of the use of the proposed outbuilding as a separate dwelling has been raised.
- 7.17 The floorplans and supporting information demonstrate the proposal would be for leisure uses (gym, snooker, bar, tv/games, sauna) which I am satisfied constitute activities which will be used in connection with the host dwelling. The applicant has also stated they would be agreeable to conditions on the outbuilding specifying its ancillary use. There is also no separate access to the proposed outbuilding.
- 7.18 Given the proposed leisure uses and lack of a separate access I am satisfied the proposed outbuilding is not capable of being used as a separate dwelling. I would consider it necessary to attach a condition restricting its use for ancillary purposes to prevent its use as a residential dwelling in the future.
- 7.19 A unilateral agreement has been submitted as part of the application to demonstrate that the outbuilding would remain for incidental use. The NPPG advises that where possible that conditions should be used rather than legal agreements. As the use of the building can be ensured by a condition, in this instance a condition is considered appropriate rather than a legal agreement.

#### **Highways**

- 7.20 The proposed outbuilding is located to the rear of the dwelling at Caledonia, and would have no detrimental impact to the highway. The site has a garage and driveway to the front of the dwelling with provision for 3-4 parking spaces. The additional outbuilding for recreational use is unlikely to significantly increase the parking or vehicular movements to the site.

#### **Landscaping**

- 7.21 Apparent from my site visit the area where the proposed outbuilding will be situated has been cleared of any trees/large shrubbery. The trees on the bank to the south and west of the proposed outbuilding do not need to be removed to facilitate the development.
- 7.22 Landscaping is proposed along the boundary to the north of the proposed outbuilding including a climbing vine and evergreen shrubs, which when fully grown will grow up to 2.5-3m. The proposed landscaping are non-native species, given that the proposal is within the residential garden and would not be easily visible from wider views I am satisfied that the proposed landscaping would be acceptable and would not harm the character of the area.

## 8.0 CONCLUSION

- 8.1 The issues raised by the Parish Council and neighbours have been fully considered in the recommendation of this application. I would like to re-iterate the proposal is not for a new dwellinghouse but an outbuilding for leisure uses associated with Caledonia and a condition is recommended.
- 8.2 I am of the view this proposal would not cause any demonstrable harm to the character, appearance and amenity of the surrounding area. It is therefore considered overall that the proposal is 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.

## 9.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include;

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Drawing Nos. Site Location Plan received 27<sup>th</sup> November 2015 and Ext 01, Ext 02, Ext 03, internal floor plan received 22<sup>nd</sup> February 2016.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

3. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of any buildings and hard surfaces 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.

4. The building hereby permitted shall only be used for purposes ancillary to the use of the dwelling known as 'Caledonia'

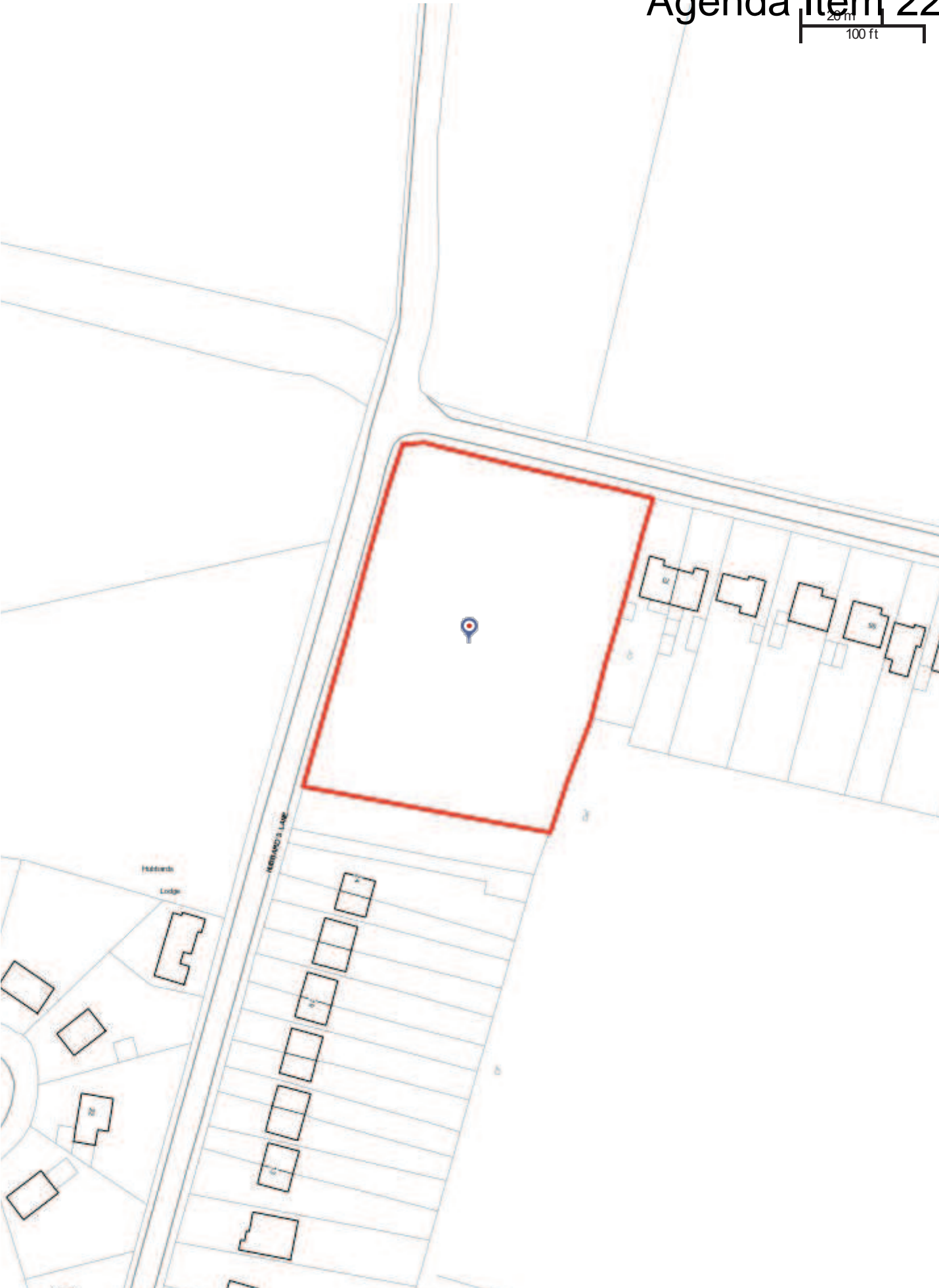
Reason: In order to protect the amenities of neighbouring properties and in accordance with the provisions of the Development Plan.

INFORMATIVES - N/A

Case Officer: Corinna Griffiths

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



16/500014 - Land West of 79 Haste Hill Road  
Scale: 1:1250  
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## REPORT SUMMARY

<b>REFERENCE NO - 16/500014/OUT</b>			
<b>APPLICATION PROPOSAL</b>			
Outline planning application for residential development of eleven dwellings considering access from Hubbard's Lane with all other matters (appearance, landscaping, layout and scale) reserved for future consideration.			
<b>ADDRESS</b> Land West Of 73 Haste Hill Road Boughton Monchelsea Kent ME17 4LN			
<b>RECOMMENDATION</b> Grant Outline Planning Permission subject to planning conditions and the completion of a legal agreement.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
-Given the current shortfall in the required five-year housing supply, the impacts of the development do not significantly outweigh its benefits. As such the development is in compliance with the National Planning Policy Framework and there are sufficient grounds to depart from the Local Plan.			
-The site is on land allocated for residential use in the draft Regulation 19 Local Plan, notwithstanding the fact that the plan is yet to be examined the site is consider acceptable for residential development.			
-The site represents a sustainable location with accessible links to local settlements.			
-The application would not cause significant harm to highways safety, residential or visual amenity.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
The recommendation is a Departure from the Development Plan			
<b>WARD</b> Loose	<b>PARISH/TOWN</b> Loose	<b>COUNCIL</b>	<b>APPLICANT</b> Mr B Piper <b>AGENT</b> Consilium
<b>DECISION DUE DATE</b> 13/04/16	<b>PUBLICITY EXPIRY DATE</b> 26/02/16	<b>OFFICER SITE VISIT DATE</b> 29/01/16	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
57/0060/MK3	The erection of dwellings	Refused	27/06/57

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land sited on the junction of Haste Hill Road (to the north), and Hubbard's Lane (to the west). The site measures approximately 0.49 hectares and it's currently classified as agricultural land. There are no existing buildings on the site. There is an existing farm access from Hubbard's Lane, fairly centrally within the boundary, this is enclosed by a

metal 'farm' gate and serves the application site and fields behind (also within the applicants ownership).

- 1.02 There is existing linear development along both Haste Hill Road and Hubbard's Lane. Properties on Hubbard's Lane are predominantly two-storey semi-detached dwellings and those on Haste Hill Road bungalows/chalet bungalows.
- 1.03 The site is outside any settlement boundary; however it adjoins rural settlement boundaries (as defined in the Local Plan) to the east and south. The application site lies within an area identified as having archaeological potential.
- 1.04 The site is enclosed by mature hedging along the northern and western boundaries. To the east, the boundary with 73 Haste Hill Road is enclosed by hedging varying in height and the south by low level wooden post fencing.

## **2.0 PROPOSAL**

- 2.01 Outline planning permission is sought to develop the site for 11 dwellings. The original submission included access and layout as matters for consideration, however following concerns raised by officers regarding the indicative layout, this is now a reserved matter.
- 2.02 As such only access arrangements are to be considered at this outline application stage with appearance, landscaping, layout and scale reserved for future consideration. In order to demonstrate that the site is capable of accommodating the scale of development proposed an illustrative site layout and dwelling design has been submitted as part of the application.
- 2.03 Vehicular access would be taken from Hubbard's Lane and would utilise the existing access with any improvements necessary to provide visibility splays.
- 2.04 The indicative plan shows 11 detached dwellings with garaging located around an internal roadway. It is indicated that 9 of the dwellings would be two-storey and 2 of the dwellings would be bungalows. The indicative design shows simply designed dwellings with pitched roofs and projecting front gables.
- 2.05 Whilst landscaping is a reserved matter, the submitted plans and information show the retention of existing hedging and planting along the northern and western boundaries. Additional planting is indicated along the southern and eastern boundaries.
- 2.06 The indicative block plan also shows a new farm access from Hubbard's Lane to replace the existing which currently dissects the application site. This access would be located adjacent to the southern boundary of the site. It is shown to be enclosed by new planting. The access is outside the application site, not included within the red line and the submitted statement makes it

clear that this would be applied for separately. The access is therefore shown for indicative purposes only and does not form part of the application.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Development Plan:

Maidstone Borough Wide Local Plan 2000:

Policy ENV6 : Landscaping, Surfacing and Boundary Treatment

Policy ENV28 : Development in the Countryside

Policy T13 : Parking Standards

Policy CF1 : Seeking New Community Facilities

Affordable Housing DPD 2006

Open Space DPD 2006

Other documents:

Maidstone Borough Local Plan Publication (Regulation 19) February 2016 :

Policy SP11 : Larger villages

Policy SP12 : Boughton Monchelsea Larger Village

Policy H1 : Housing site allocations

Policy H1(52) Hubbards Lane and Haste Hill Road, Loose

Policy DM1 : Principles of good design

Policy DM2 : Sustainable design

Policy DM11 : Housing Mix

Policy DM12 : Density of housing development

Policy DM24 : Sustainable transport

Policy DM25 : Public transport

Policy DM27 : Parking standards

Kent Design Guide Review : Interim Guidance Note 3 : Residential Parking

### **4.0 LOCAL REPRESENTATIONS**

#### **4.01 Loose Parish Council**

Would like to see the application approved.

#### **4.02 Boughton Monchelsea Parish Council** (application site adjoins the Parish boundary)

No comments received



4.02 Adjoining neighbours were notified of the application. A site notice was also put up at the site. 3 letters have been received in response to the consultation which are summarised as follows :

- Led to believe that the development of this area was going to be single storey.
- Two storey houses being proposed that will overlook the rear gardens of 73 and 71 Haste Hill Road.
- Agree that the site is suitable for development but not at the cost of invading the privacy and devaluation.
- Site is currently a green gap.
- Inappropriate development and would spoil the 'village edge' appearance of the area.
- Impact of increase traffic.

## **5.0 CONSULTATIONS**

### **5.01 Kent Police**

The applicant/agent at this stage has not included crime prevention measures nor have they demonstrated of how they will apply the seven attributes of CPTED in their Design and Access Statement (D&AS), they have however stated that this is an outline application with the detail and layout of the units to be conditioned , as this is the case and the layout is indicative I suggest prior to the submission of any reserved matters application, the applicant, agents, or successors in title, are encouraged to undertake pre-application (reserved matters) discussion with the local Planning Authority. As part of this pre-application discussion, it may well be necessary to consult with external bodies such as Kent Police Crime Prevention Design Advisors (CPDAs) to ensure that a comprehensive approach is taken to Crime Prevention and Community Safety.

If this outline planning application is given approval then we would suggest that a condition be included as part of the outline planning approval to ensure that Crime Prevention is addressed effectively in the design and layout for reserved matters.

### **5.02 Environmental Health Officer**

The site is in a semi-rural area, and traffic noise is unlikely to be a significant problem for this particular site. The site is outside the Maidstone Town Air Quality Management Area, and I do not consider the scale of this development and/or its site position warrants either an air quality assessment or an Air Quality Emissions Reduction condition applied to it. However, low emission transport initiatives should be supported by the developers in some way.

The historical use of the site for agricultural purposes (orchards and allotments) indicates it would be prudent to set a contaminated land condition

on any permission granted, but there is no indication of any significant chance of high radon concentrations.

No objection subject to conditions relating to Land Contamination and Car charging points.

### 5.03 **KCC Highways Officer**

The proposed access has adequate visibility and there is a good crash record along Hubbards Lane. There is sufficient space within the site for vehicles to turn.

The parking provision proposed does not meet our standards set out in IGN3. This document stipulates that 4+ bedroom houses require 2x independently accessible spaces. The fact that large garages are proposed as parking spaces may lead to parking problems within the site. Whilst this is not ideal and we would prefer 2x independently accessible spaces, I do not feel that this will create a highway safety problem.

For the reasons outlined above I do not wish to raise objection on behalf of the local highway authority subject to:

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.

### 5.04 **KCC Flood Risk Project Officer**

Kent County Council Flood & Drainage team, as Lead Local Flood Authority have no objection in principle to the proposed development but insufficient information regarding means of surface water disposal has been provided for us to make detailed comment at this stage.

However given the outline nature of this application we would recommend a planning condition would be acceptable.

We strongly recommend this condition be considered prior to or in conjunction with, approval of road and housing layout to ensure the optimum space can be allocated for conveyance of storm runoff using sustainable drainage techniques.

#### 5.05 **Southern Water**

Foul drain goes along rear of the site which would need to be investigated to establish its exact location prior to finalising the layout.

#### 5.06 **Senior Archaeological Officer**

The site lies within c.300m of Boughton Camp, an Iron Age oppidum and a Scheduled Monument. Iron Age activity sites have been located around the main Iron Age site and there is potential for Iron Age remains to survive on this site. No objection subject to a condition.

#### 5.7 **Upper Internal Drainage Board**

I can confirm that as this site is outside of the IDB district, and as surface water is proposed to be disposed of by means of soakaways, IDB interests are unlikely to be affected. The soakaways should however be designed in accordance with KCC's Soakaway Design Guide (July 2000).

#### 5.8 **Southern Gas Networks**

Provided a plan showing the location of the gas main and guidance notes.

#### 5.9 **KCC Developer Services**

Request contribution towards Library Bookstock (£48.02/dwelling) and condition relating to the provision of fibre optic broadband.

#### 5.10 **NHS Property Services**

NHS Property Services Ltd seeks a healthcare contribution of £9,266.40 plus support for our legal costs in connection with securing this contribution. This figure has been calculated as the cost per person needed to enhance healthcare needs within the NHS services.

#### 5.11 **Landscape Officer**

There are no protected trees on, or adjacent to, this site.

The existing hedges on site boundaries appear to be retained in the indicative layout. Any proposed enhancement should include the planting of a number of hedgerow trees and comply with the principles of the Maidstone Landscape Character Guidelines. The suggested new hedgerow on the southern boundary adjacent to the farm track is also important if development is considered appropriate in this location. I therefore raise no objection on arboricultural grounds subject to conditions requiring protection details for the existing hedge to be retained and any new areas of landscaping in accordance with BS5837: 2012 and landscaping conditions.

## 6.0 BACKGROUND PAPERS AND PLANS

Application form  
Design and Access Statement  
Planning Statement  
Transport Statement  
1:1250 Site Location Plan  
Drawing 2353/1/ (Block Plan) – Indicative Only  
Drawing 2353/3/ (Plot 3. Plans and Elevations) – Indicative Only

## 7.0 APPRAISAL

### Principle of Development

#### Local Plan policy

- 7.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000, and as such the starting point for consideration of the proposal is policy ENV28 which relates to development within the open countryside. The policy states that:
- 7.02 *“In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:*
- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
  - (2) the winning of minerals; or*
  - (3) open air recreation and ancillary buildings providing operational uses only; or*
  - (4) the provision of public or institutional uses for which a rural location is justified; or*
  - (5) such other exceptions as indicated by policies elsewhere in this plan.”*
- 7.03 In this case, none of the exceptions against the general policy of restraint apply, and therefore the proposal represents a departure from the Development Plan. It then falls to be considered firstly whether there are any material considerations which indicate that a decision not in accordance with the Development Plan is justified in the circumstances of this case, and (if so) secondly whether a grant of planning permission would result in unacceptable harm, such that notwithstanding any material justification for a decision contrary to the Development Plan, the proposal is unacceptable.
- 7.04 The key material consideration outside of the Development Plan in the determination of applications for residential development in the open countryside is national planning policy as set out in the National Planning

Policy Framework 2012 (NPPF) and the Council's position in respect of a five year housing land supply.

Five year housing land supply

- 7.05 The National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should;

*'identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;'*

- 7.06 The Council has undertaken a Strategic Housing Market Assessment (SHMA) which was completed in January 2014. This work was commissioned jointly with Ashford and Tonbridge and Malling Borough Councils. A key purpose of the SHMA is to quantify how many new homes are needed in the borough for the 20 year period of the emerging Local Plan (2011 -31). The SHMA (January 2014) found that there is the objectively assessed need (OAN) for some 19, 600 additional new homes over this period which was agreed by Cabinet in January 2014. Following the publication of updated population projections by the Office of National Statistics in May, the three authorities commissioned an addendum to the SHMA. The outcome of this focused update, dated August 2014, is a refined objectively assessed need figure of 18,600 dwellings. This revised figure was agreed by Cabinet in September 2014. Since that date revised household projection figures have been published by the Government and as a result the SHMA has been re-assessed. At the meeting of the Strategic Planning, Sustainability and Transport Committee on 9 June 2015, Councillors agreed a new OAN figure of 18,560 dwellings.
- 7.07 The new Local Plan has advanced and is out to Regulation 19 publication being the Plan that the Council considers is ready for examination. The Plan is scheduled for submission to the Planning Inspectorate for examination in May 2016, with the examination expected to follow in September. The Plan allocates housing sites considered to be in the most appropriate locations for the Borough to meet the OAN figure, and will enable the Council to demonstrate a 5 year supply of deliverable housing sites when it is submitted to the Inspectorate in May. Clearly the Local Plan is gathering weight as it moves forward, but it is not considered to have sufficient weight to rely solely on to refuse or approve a planning application.
- 7.08 Notwithstanding this, it remains the case the most recently calculated supply of housing, which assesses extant permissions and expected delivery, is from April 2015. This demonstrates a 3.3 year supply of housing assessed against

the OAN of 18,560 dwellings. A desk based review of housing supply undertaken in January 2016 to support the Regulation 19 Local Plan housing trajectory suggests that there remains a clear and significant shortfall of supply against the five year requirements.

- 7.09 The Council's five year supply position will be formally reviewed in April/May in order to support the submission of the Local Plan to examination in May. Before the Local Plan is submitted however, the Council will remain unable to demonstrate a 5 year supply of deliverable housing sites.

#### Sustainable development

- 7.10 Paragraph 14 of the NPPF states that the "...presumption is favour of sustainable development...should be seen as a golden thread running through...decision making".
- 7.11 The application site is located adjacent to existing settlement boundaries. There is existing footway along the full extent of Hubbard's Lane and Haste Hill Road with access to both Boughton Monchelsea and Loose. Boughton Monchelsea is considered as a larger village within the Draft Local Plan, considered as a sustainable location for limited new housing and an increase in population would help to support village services and facilities. The policy allows for new housing on allocated site. The policy is yet to be adopted, however in the sites consideration to be allocated it is considered that it meets sustainability credentials.
- 7.12 In accordance with Paragraph 55 of the NPPF which seeks to '*promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*' The development would 'infill' a corner site with existing dwellings of built form along the majority of the boundaries. Although outside the settlement boundary, it adjoins it and due to the numerous houses and buildings adjacent and the proposed size of the development it is not considered that the proposed dwellings would be isolated as defined by Paragraph 55 of the NPPF.

#### Draft housing allocation

- 7.13 Policy H1(52) of the Maidstone Borough Local Plan, Publication (Regulation 19) seeks to allocate the application site for residential development. The policy would allocate the site for approximately 20 dwellings, with the allocation seeking to retain and enhance the boundary hedging along the southern and eastern boundaries, provide access from Hubbard's Lane and seek appropriate contributions towards improvements at the junction of Heath Road and the A229. The policy is yet to be adopted policy and carries limited weight; however some consideration of the policy in respect to the application is considered appropriate.
- 7.14 Access would be taken from Hubbard's Lane, utilising the existing access and boundary hedging is shown to be retained and could be improved as part of a landscaping scheme at reserved matters stage.

- 7.15 The proposed allocation site includes a larger site area than that put forward with the current application. This is to allow for a separate agricultural access to serve agricultural fields which the agent suggests are in productive use for growing soft fruits (cherry orchards). This reduced site area has led to lesser numbers than the 20 dwellings suggested in the policy, with a proposed density of 22 dwellings/hectare. This density is lower than the 30 being taken forward in Policy DM12 of the Draft Local Plan. However due to the site constraints, the threat of existing neighbouring development and the location of the site it is considered acceptable to have a lower density in this case. Highways matters are discussed later in the report.
- 7.16 In summary, the application is in outline, with all matters other than access reserved. Whilst an outline submission the submitted indicative plans demonstrate that boundary hedging could be retained, ecology, highways and drainage matters could be satisfactorily addressed through conditions and that community needs could be secured through a legal agreement (all discussed in greater detail below). The site is considered accessible and would address an identified housing need.
- 7.17 It is considered that the development of the site for housing would represent a sustainable form of development and in principle the scheme would be acceptable subject to an assessment of whether the impacts of development would demonstrably outweigh the benefits in accordance with Paragraph 14 of the NPPF. Further consideration in this respect is discussed below.

#### **Visual Impact (including landscaping)**

- 7.18 The site is outside a settlement boundary and as such is defined as being within the countryside. No specific landscape designations relate to the site. Policy ENV28 of the Local plan states: *'In the countryside planning permission will not be given for development which harms the character and appearance of the area.'*
- 7.19 Paragraph 17 of the NPPF sets out core planning principles, these include: *take account of the different roles and character of different areas...recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.'* and *'contribute to conserving and enhancing the natural environment.'*
- 7.20 The current application seeks outline planning permission; as such the issue of appearance, scale, layout and landscaping are for future consideration. It is known 11 dwellings would be proposed and access would be taken from Hubbard's Lane.

#### **Access arrangements**

- 7.21 The submitted proposal includes the re-use of the existing access for the proposed residential development. The access would require minimal loss of additional hedging, solely to ensure suitable visibility. In principle it is

considered that subject to a suitable landscaping scheme the access arrangements would be acceptable in terms of the impact on visual amenity (highways issues are discussed later in this report).

### Visual impact

- 7.22 Undoubtedly the development of the site for residential dwelling would impact on the character and appearance of the site. The site is currently characterised as an open field, with an absence of built form. The site occupies a corner position, with views afforded into the site through gaps in the boundary treatment and landscaping.
- 7.23 The existing hedge and potential enhancement soften the views into the site and would provide an important landscape buffer. It is recommended that planning conditions be used to ensure that the hedge is retained and for its long term management.
- 7.24 The site is bordered by built form on two existing boundaries. The development of the site would infill the existing linear development along Haste Hill Road and Hubbard's Lane.
- 7.25 The indicative plans show a mix of two storey and single storey dwellings which would be an acceptable approach to the development of the site, notwithstanding the current arrangement shown is unlikely to be supported.
- 7.26 In summary whilst the loss of open green space is always regrettable the loss of this space would '*demonstrably outweigh the benefits*' gained through the provision of housing. The proposal would retain existing boundary planting and the scheme can be designed to reflect the prevailing character of existing built form. The number of dwellings proposed can be reasonably accommodated on the size of the application site. The impact on visual amenity would be acceptable and it cannot be argued that the scheme would demonstrably outweigh the benefit of new housing in accordance with the policies set out in the NPPF.

### **Residential Amenity (future and existing occupiers)**

- 7.27 Paragraph 17 of the NPPF sets out the 12 core principles of planning, and in terms of design these include:
- 'always seeking to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'
- 7.28 The application seeks outline permission and as a result does not provide full details of layout, scale, design etc. The submission does provide an illustrative site layout which seeks to demonstrate that the site could accommodate the housing numbers proposed.
- 7.29 Existing residential properties adjoin the application site. It is considered that through the design and layout of the reserved matters scheme the amenity of



adjoining occupiers can be suitably protected. As such there is no objection to the scheme in terms of the impact on neighbouring amenity.

- 7.30 The development of the site for 11 dwelling is not high density, and would accord with the prevailing character of the area (as discussed further in the previous section). It is considered that the site can comfortably accommodate 11 dwellings and provide accommodation of a suitable standard including in terms of privacy and outdoor space.

### **Highways, car parking, traffic and transport**

- 7.31 Paragraph 29 of the NPPF states that:

*‘Transport policies have an important role to play in facilitating sustainable development.....The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.....opportunities to maximise sustainable transport solutions will vary from urban to rural areas.’*

- 7.32 As it is not a reserved matter, access arrangements to the site have to be considered as part of the current outline application submission. The proposal involves the re-use of the existing access. It is considered that suitable visibility splays can be provided to ensure that the access arrangements are acceptable and that the development will not harm highway safety.
- 7.33 The internal layout of the site would be considered as part of a future reserved matters application. It is considered that there is sufficient space available on the site to accommodate suitable parking provision, cycle storage and service arrangements for 11 dwellings.
- 7.34 The application is accompanied by a supporting transport study. This study has assessed traffic speeds, visibility standards and road safety. It is considered that the proposal is acceptable in relation to the impact on the local highway network and there have been no objections raised by the highways authority.

### **Ecology**

- 7.35 The submitted planning application is not accompanied by an ecological survey. The planning agent in the supporting statement requests that matters relating to ecology be dealt with by condition. Advice within National Planning Policy Guidance states that ecological surveys “...should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity”.
- 7.36 With the principle of development of the application site for residential development supported in the draft regulation 19 Local Plan and the outline nature of the application it is considered that ecological information, mitigation and enhancement can be requested through a planning condition.

## **Archaeology**

- 7.37 The site lies within c.300m of Boughton Camp, an Iron Age oppidum and a Scheduled Monument. Iron Age activity sites have been located around the main Iron Age site and there is potential for Iron Age remains to survive on this site. In view of the site of the development and the archaeological potential it is considered that the scheme would be acceptable in terms of archaeological potential subject to a condition relating to a programme of archaeological work.

## **Planning obligations**

- 7.38 Policy CF1 of the Local Plan states:

*‘Residential development which would generate a need for new community facilities or for which spare capacity in such facilities does not exist, will not be permitted unless the provision of new, extended or improved facilities (or a contribution towards such provision) is secured by planning conditions or by planning obligations.’*

- 7.39 Under the terms of section 122 of the CIL Regulations all planning obligations sought within a s106 agreement must be necessary to make the application acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

- 7.40 Since 6th April 2015, section 123 of the CIL Regulations additionally requires that all contributions being sought by way of s106 agreements should relate to the funding or provision of an infrastructure project or type of infrastructure, and that no more than five separate planning obligations (calculated back to April 2010) can contribute towards the funding or provision of a project or type of infrastructure (“the pooling restriction”). As such, the scope of contributions that can be sought in respect of new development is restricted. Affordable housing is excluded from the pooling restriction on contributions.

## Library services

- 7.41 Kent County Council has identified an impact on library services associated with the proposed development. The development would elicit a requirement for additional library bookstock. Kent County Council have identified this requirement would go towards items for the library services. This requirement is considered compliant with the CIL regulations and would be sought through a Section 106 agreement at a contribution of £48.02 per dwelling.

## Affordable housing

- 7.42 Policy AH1 of the Affordable Housing DPD sets out when affordable housing would be required with the document stating:

*‘On housing sites or mixed-use development sites of 15 units or more, or 0.5 hectares or greater.’*

- 7.43 The application site area is no greater than 0.5 hectares (measured at 0.49ha) and as such the proposal would fall below the remit of the policy.

#### Open space

- 7.44 Similarly Policy OS1 of the Open Space DPD outlines the requirement for open space provision. This relates to residential developments of 10 dwellings or more and as such the scheme would meet the policy requirement.
- 7.45 A consultation response is awaited from the Parks and Leisure Service to assess whether there is a requirement for contributions towards Open Space. The applicant has indicated his willingness to include a contribution should it be required and Members will be updated as necessary.

#### NHS

- 7.46 A need has been identified for contributions to support the delivery of investments highlighted within the NHS Strategic Service Development Plan. These improvements to the primary care infrastructure will enable support in the registrations of the new population, in addition to the commissioning and delivery of health services to all. This proposed development noted above is expected to result in a need to invest in a number of local surgery premises:

- Orchard Medical Centre
- Stockett lane Surgery
- Mote Medical Practice
- Boughton Lane Surgery

- 7.47 The above surgeries are within a 1.3 mile radius of the development at Haste Hill Road. This contribution will be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity.

#### Highways improvements

- 7.48 Policy H1(52) of the Draft Local Plan seeks '*Appropriate contributions towards improvements at the junction of the B2163 Heath Road with the A229 Linton Road/Linton Hill at Linton Crossroads.*' A similar requirement is included on a number of other site allocations within the Coxheath and Boughton Monchelsea.
- 7.49 The application site represents a development of a smaller scale/numbers than a number of other allocated sites, monies have been secured for these works through existing Legal Agreements and the CIL regulations restricts the pooling of contributions. As such due to the level of contribution which could be secured, pooling numbers, the Local Plan yet to be adopted and the number of alternative larger allocations which include the policy it is not

considered that contributions towards highways improvements should be requested in this case.

- 7.50 Overall subject to the completion of a S106 agreement in relation to the provision of monies towards Library Bookstock, Medical Services, and Open Space it is considered that the proposed development is acceptable. The applicant has indicated his willingness to enter into an agreement.

#### **Other matters**

- 7.51 Southern Water has identified a foul sewer located to the east of the site. The location of this sewer needs further investigation to identify its position and any layout and landscaping scheme would need to take into consideration its location. An informative will make the applicant aware.
- 7.52 Matters relating to drainage and flood risk could suitably be dealt with by planning conditions.
- 7.53 The Environmental Health Officer has suggested that there may be a likelihood of land contamination on the site due to the former agricultural use of the land. This likelihood is unlikely but could be suitably addressed by condition.

### **8.0 CONCLUSION**

- 8.01 Given the current shortfall in the required five-year housing supply, the impacts of the development are not considered to significantly outweigh its benefits. As such the development is considered to be in compliance with the National Planning Policy Framework and this is sufficient grounds to depart from the Local Plan.
- 8.02 The site is proposed to be allocated as part of the Local Plan and has been assessed to meet the criteria for allocation, notwithstanding the prematurity and the plan is yet to be examined the site is considered acceptable for residential development.
- 8.03 The site represents a sustainable location with accessible links to local settlements.
- 8.04 The application would not cause significant harm to highways safety, residential or visual amenity.

### **9.0 RECOMMENDATION – Grant Outline Planning Permission subject to planning conditions and the completion of a legal agreement as set out below.**

#### **S106 Heads of terms:**

1. A contribution of £48.02 per dwelling towards additional library book stock.
2. A contribution of £9,266.40 towards healthcare provision at Orchard Medical Centre - 146 Heath Road, Coxheath, ME17 4PL, Stockett Lane Surgery, 3

Stockett Lane, Coxheath ,ME17 4PS, Mote Medical Practice, St Saviours Road, ME15 9FL or 1 Boughton Lane, Loose ME15 9QJ or Boughton Lane Surgery 1 Boughton Lane, Loose, ME15 9QJ towards improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity.

3. A contribution towards open space in accordance with necessary mitigation outlined by the Parks and Leisure section.

**Planning conditions**

- (1) The development hereby approved shall not commence until approval for the following reserved matters has been obtained in writing from the Local Planning Authority being:-

(a) appearance (b) landscaping (c) layout and (d) scale

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

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

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

- (2) Prior to the development reaching damp proof course level details of all external materials (including wearing surfaces for the roads, turning and parking areas), shall have been submitted in writing for the approval of the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- (3) Prior to development commencing the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded. This information is required prior to commencement as any site works have the potential to harm items of archaeological interest

- (4) No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation. The scheme shall be in accordance

with the requirements outlined in the Bat Conservation Trust and Institution of Lighting Engineers documents Bats and Lighting in the UK.

Reason: To protect the appearance of the area, the environment and wildlife from light pollution.

- (5) The details submitted in pursuance of Condition 1 shall show adequate land, reserved for parking or garaging to meet the needs of the development. The approved area shall be provided, surfaced and drained in accordance with the approved details before the buildings are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to this reserved parking area.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to parking inconvenient to other road users and detrimental to amenity.

- (6) The details submitted in pursuance of Condition 1 shall show adequate land, reserved for vehicle loading/unloading and turning facilities to meet the needs of the development. The approved area shall be provided, surfaced and drained in accordance with the approved details before the buildings are occupied and shall be retained as such. Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, shall be carried out on the land so shown as vehicle loading/unloading and turning facilities

Reason: Development without provision of adequate manoeuvring space has the potential to be inconvenient to other road users and detrimental to amenity.

- (7) The details submitted in pursuance of Condition 1 shall include a Phase 1 Ecological Survey and any additional reports identified in the survey. These details shall include a scheme for any mitigation and enhancement of biodiversity on the site. The approved scheme shall take account of any protected species that have been identified on the site, and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals within it and shall be carried out in perpetuity.

Reason: To protect and enhance existing species and habitat on the site in the future and to ensure that the enhancement methods can be successfully implemented prior, during or post development. This information is required prior to commencement as any site works have the potential to harm any protected species that may be present.

(8) Prior to development commencing the following shall be submitted to and approved in writing by the Local Planning Authority:

- details of facilities, by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances at the application site. The approved facilities shall then be provided prior to the works commencing on site and thereafter shall be maintained in an effective working condition and used before vehicles exit the site and enter onto the adopted highway for the duration of the construction works.
- details of construction vehicle loading/unloading and turning facilities.
- details of parking facilities for site personnel and visitors during construction phase.

The works shall be carried out in accordance with the approved details and retained for the duration of the construction works.

Reason: To ensure that no mud or other material is taken from the site on to the neighbouring highway by wheels of vehicles leaving the site to the detriment of highway safety and the amenities of local residents and to ensure that adequate space is available on site to ensure construction phase can be carried out without a detrimental impact on highway safety and local amenities. This information is required prior to commencement as any works may result in the nuisance that this condition seeks to prevent.

(9) Prior to development commencing, the proposed access shall be provided and the area of land within the vision splays shown on the approved plan shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway and be so retained in accordance with the approved plan.

Reason: In the interests of highway safety this is necessary prior to commencement of development as construction vehicles will use the existing access.

(10) Development shall not begin until a sustainable surface water drainage scheme, has been submitted to and approved in writing by the local planning authority. The surface water strategy should also be compliant with the Non-Statutory Technical Standards for Sustainable Drainage (March 2015). The strategy should also include details for the provision of long term maintenance of all surface water drainage infrastructure on the site.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site. This information is required prior to

commencement as any construction work may restrict the extent of a drainage scheme.

- (11) Landscaping details submitted pursuant to condition 1 shall be implemented in the first available planting season following first occupation of the development hereby approved. Any part of the approved landscaping scheme that is dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity.

- (12) No surface water shall discharge onto the public highway.

Reason: In the interests of the free flow of traffic of traffic and highway safety.

- (13) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should 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;

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.



Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This information is required prior to commencement as any construction work may spread any contamination that could be present.

- (14) The development hereby permitted shall be carried out in accordance with the following approved plans:

Transport Statement

1:1250 Site Location Plan

Drawing number 2353/1/- (Block Plan) (Indicative Only) - Matters relating to point of access only.

Reason: To clarify which plans have been approved.

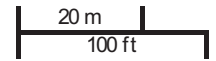
### **INFORMATIVES**

- (1) Planning permission does not convey any approval for construction of the vehicular crossings, or any other works within the highway, for which a statutory licence must be obtained separately. Applicants should contact Kent County Council Highways ([www.kent.gov.uk](http://www.kent.gov.uk) or 03000 41 81 81) for further information.
- (2) The applicant should be aware of the location of the public foul sewer to the eastern boundary of the site as identified by Southern Water in their letter dated 16/2/16. The location of the sewer should be identified prior to finalising the layout and taken into consideration when designing the layout and considering a landscaping scheme.

Case Officer: Rachael Elliott

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

# Agenda Item 23



16/500374 - The Forstal, Mount Castle Lane  
Scale: 1:1250  
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## REPORT SUMMARY

<b>REFERENCE NO - 16/500374/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Demolition of existing buildings and erection of 6 residential dwellings, together with associated access, parking, drainage works and landscaping.			
<b>ADDRESS</b> The Forstal, Mount Castle Lane, Lenham Heath, Kent, ME17 2JB			
<b>RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
Whilst the proposed development does not accord with policy ENV28 of the Maidstone Borough-wide Local plan 2000 or the provisions of the NPPF relating to sustainable housing development in the countryside the balance of issues falls significantly in favour of the proposal and approval is recommended for the following reasons:			
(a) The proposal does not result in any material loss of economic activity to the Borough, (b) it involves reuse of brownfield land in accordance with Government policy, (c) it makes a contribution in meeting the Borough's acknowledged housing shortfall, (d) it will bring about improvements to the visual and aural amenity of nearby houses and setting of a Listed Building while safeguarding the character and setting of the adjoining countryside, (e) it reduce HGV and employee traffic resulting in a material improvement to highway safety and the free flow of traffic in the locality and (f) will bring about wildlife and habitat improvements to the locality.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
The recommendation is a Departure from the Development Plan			
<b>WARD</b> Harrietsham And Lenham Ward	<b>PARISH/TOWN</b> Lenham	<b>COUNCIL</b>	<b>APPLICANT</b> TG Designer Homes <b>AGENT</b> DHA Planning
<b>DECISION DUE DATE</b> 24/03/16	<b>PUBLICITY EXPIRY DATE</b> 04/03/16	<b>OFFICER SITE VISIT DATE</b> 10/2/16	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/505358/FULL	Demolition of existing buildings and erection of 6 dwellings with associated works	Permitted	26/5/15

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The site occupies an isolated location in open countryside not subject to any specific landscape designation.
- 1.02 The site is currently in commercial use for the storage, distribution and packing of fruit and vegetables. There are 5 main buildings on the site used for packing, processing and offices with the remainder of the site covered by hardstanding providing for vehicle circulation and parking.

- 1.03 Agricultural land bounds the site to the west and south with residential properties immediately abutting the north and east site boundaries. Access to the site is from Bull Hill to the east.

## 2.0 PROPOSAL

- 2.01 The proposal involves the demolition of all existing building and their replacement with a cul de sac of 6 no: detached two storey houses comprising 5 no. 4 bedroom units and 1 no. 5 bedroom unit with their own private gardens. The current footprint of commercial buildings on the site comes to just over 1900 square metres with the proposed development reducing this to just over 1000 square metres amounting to a 44% reduction in building footprint.
- 2.02 The dwellings are shown arranged around central road which would be landscaped. The proposed dwellings are shown having either 'L' or 'T' shaped building footprints. The proposal include a minimum of 4 off street car parking spaces for each of the six houses with two spaces provided as garages (one integral and 5 detached double garages) and space for at least two cars to the front of the houses. A further two off street visitor spaces are provided.
- 2.03 Dwellings are to be separated by a combination of close board fencing and hedgerows. The southern and western site boundaries are proposed to be planted with a landscape buffer.
- 2.04 The application is accompanied by an Extended Phase 1 Habitat Survey and Bat Building Report, drainage statement and phase 1 desk study relating to site contamination.

## 3.0 SUMMARY INFORMATION

	Approved Scheme (14/505358)	Proposed	Change (+/-)
Site Area (ha)	0.53ha	0.53ha	No change
No. of Residential Units	6	6	No change
No. of Parking spaces	12 (garages)	12 (garages)	No change
Dwelling Mix	3no. 4 bedroomed 3no. 5 bedroomed	5no. 4 bedroomed 1no. 5 bedroomed	+2 4no. bedroomed -2 5no. bedroomed
No.storeys	2 storeys (some with basements)	2 storeys	No change (removal of basements)
Building footprint (approximate)	1400sq/m	1000sq/m	-400sq/m

## 4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: ENV28, T13

## **5.0 LOCAL REPRESENTATIONS**

### **5.01 Lenham Parish Council**

(29/2/16): No objection and wish to see application approved

5.02 Adjoining neighbours were notified of the application and a site notice was also put up at the site. No representation was received.

## **6.0 CONSULTATIONS**

### **6.01 MBC Landscape**

There are no protected trees on or adjacent to this site. An arboricultural report doesn't appear to have been provided in support of this application so I have referred to the report on inspection of trees produced by Broad Oak Tree Consultants Limited in relation to the previous application, 14/505358.

Whilst there is no objection I can raise on arboricultural grounds subject to a landscape condition which includes a requirement for tree protection details in accordance with BS5837: 2012, it is disappointing to see that the proposed planting on the western and southern boundary planting has been reduced from the original scheme, particularly to the south of plot B.

### **6.02 MBC Heritage**

The existing large-scale modern farm buildings are unattractive features in the countryside and have some detrimental impact on the setting of the listed Forstal House. The proposal to demolish these buildings and replace them with six new dwellings will result in less of the site being occupied by buildings than is currently the case and will also result in the softening of unbuilt areas, removing the existing extensive hardstanding. Permission was previously granted for 6 houses on this site in 2014 but the current proposals relate to a slightly less intensive scheme with houses of lower height. The design of the proposed dwellings is in a contemporary idiom utilising vernacular materials which I consider to be appropriate to its context. In my opinion, therefore, the proposals would result in an improvement to the setting of the listed building.

Raise no objection to this application on heritage grounds subject to conditions re samples of materials, removal of all PD rights, the use of timber windows and doors and landscaping details.

### **6.03 Kent Highway Services**

The access to the development is existing with a wide radius and good visibility at the junction. There has been no history of vehicle crashes at the junction. The proposed parking provision of 2x independently accessible spaces per dwelling as well as 2x visitor spaces meets our standards as set out in IGN3.

For the reasons outlined above and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority subject to:

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision and permanent retention of the vehicle parking spaces and garages shown on the submitted plans prior to the use of the site commencing.

#### 6.04 **Environmental Health**

No objection subject to imposition of condition requiring site investigation and remediation.

#### 6.05 **Southern Water**

No objection subject to informative relating to sewer connection and condition relation to foul and surface drainage.

#### 6.06 **Environment Agency (comments taken from previous application)**

No objection subject to conditions requiring site investigation and remediation and controls over surface water disposal.

#### 6.07 **KCC Ecology (comments taken from previous application)**

The submitted Extended Phase 1 Habitat Survey and Bat Building Report concluded that the site is of limited ecological interest and that no further ecological surveys are required. Nevertheless the site does provide opportunities for nesting birds and to minimise the potential for impacts a precautionary approach to vegetation clearance and the demolition of the buildings is recommended in the report.

Satisfied that the Extended Phase 1 Habitat Survey and Bat Building Report provides an adequate assessment of the potential ecological impacts.

If planning permission is granted advise that ecological enhancements set in the Extended Phase 1 Habitat Survey and Bat Building Report regarding the provision of bird nest boxes and planting of native species be made the subject of condition.

### 7.0 **BACKGROUND PAPERS AND PLANS**

Application form  
Design and Access Statement  
Planning Statement  
Extended Phase 1 Habitat Survey and Bat Building Report  
Drainage Statement  
Phase I Desk Study (Soils report)  
Drawing Number PR49.01 (Site Location Plan)  
Drawing Number PR49.02 Revision B (Existing and Proposed Block Plans)  
Drawing Number PR49.03 Revision C (Proposed Masterplan)  
Drawing Number PR49.04 (Proposed Plot A and C Plans and Elevations)  
Drawing Number PR49.05 (Proposed Plot B Plans and Elevations)  
Drawing Number PR49.06 (Proposed Plot D and E Plans and Elevations)  
Drawing Number PR49.07 (Proposed Plot F Plans and Elevations)

Drawing Number PR49.08 (Proposed Typical Garage drawing)  
Drawing Number PR49.09 Revision A (Proposed Ground Floor Site Plan)  
Drawing Number PR49.10 (Proposed comparison plan)

## 8.0 APPRAISAL

### Background history

8.01 Planning application 14/505358 was presented to Members in April 2015 which sought planning permission for the redevelopment of the site to include the demolition of the existing buildings and provide 6 new dwellings (a copy of the report is appended to this report). This application was approved by Members subject to conditions. (A copy of this report is attached as an Appendix)

8.02 The summary conclusion to support the recommendation read as follows:

*Notwithstanding that the proposal can be considered to represent unsustainable housing development in the countryside taking into account that it will:*

- *Not result in any material loss of economic activity to the Borough;*
- *Involves reuse of brownfield land in accordance with Government policy;*
- *Make a contribution in meeting the Borough's acknowledged housing shortfall*
- *Will bring about improvements to the visual and aural amenity of nearby houses and setting of a Listed Building while safeguarding the character and setting of the adjoining countryside.*
- *Reduce HGV and employee traffic resulting in a material improvement to highway safety and the free flow of traffic in the locality and;*
- *Bring about wildlife and habitat improvements to the locality*

*it is considered that the balance of issues fall significantly in favour of the proposal and it is recommended that planning permission is granted accordingly.*

8.03 The submitted application now seeks to amend the layout and design of the approved scheme. There would be no change to the number of dwellings proposed, remaining at 6. The mix of units would have a minor change with 4 bedroomed units favoured and a decrease in the number of 5 bedroomed units

### Principle of Development

8.04 Planning policy has not significantly changed since the previous approval and the main considerations with regard to the principle of development remain largely unchanged.

8.05 The new Local Plan has advanced and is out to Regulation 19 publication being the plan that the Council considers is ready for examination. The Plan is scheduled for submission to the Planning Inspectorate for examination in May 2016, with the examination expected to follow in September. The Plan allocates housing sites considered to be in the most appropriate locations for the Borough to meet the Objectively Assessed Need (OAN) figure, and will enable the Council to demonstrate a 5 year supply of deliverable housing sites when it is submitted to the Inspectorate in May. Clearly the Local Plan is gathering weight as it moves forward, but it is not considered to have sufficient weight to rely solely on to refuse or approve a planning application.

- 8.06 Notwithstanding this, it remains the case the most recently calculated supply of housing, which assesses extant permissions and expected delivery, is from April 2015. This demonstrates a 3.3 year supply of housing assessed against the OAN of 18,560 dwellings. A desk based review of housing supply undertaken in January 2016 to support the Regulation 19 Local Plan housing trajectory suggests that there remains a clear and significant shortfall of supply against the five year requirements.
- 8.07 The Council's five year supply position will be formally reviewed in April/May in order to support the submission of the Local Plan to examination in May. Before the Local Plan is submitted however, the Council will remain unable to demonstrate a 5 year supply of deliverable housing sites.
- 8.08 The scheme still fails to meet any of the exceptions set out in Policy ENV28 of the Local Plan and does not meet any of the exceptions to allow residential development in an isolated location as set out in Paragraph 55 of the NPPF. However it was considered in the assessment of the previous submission that there are significant material considerations to outweigh this and approve the principle of development. These are considered as follows (largely following the consideration of the extant approval).
- 8.09 One of the core planning principles set out in paragraph 17 of the NPPF is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. This site clearly falls within the category of previously developed land.
- 8.10 The existence of large commercial buildings, which are considered to represent sources of visual intrusion, harmful to the outlook and amenity of houses abutting the site boundary in Mount Castle Lane while also intruding into the setting of The Forstal, a Grade II Listed Building, must be acknowledged. There is also the impact on aural amenity, not only from activities taking place within the buildings but also activities taking place outside, none of which are subject to any planning controls.
- 8.11 The current commercial use of the site ( and in all likelihood any future commercial users of the site) will continue to attract HGV's (both articulated and fixed wheelbase) to the site in addition to car borne employee traffic given the unsustainable location of the site poorly served by public transport. Access to the site is only via narrow country roads unsuitable for HGV's. The proposal will therefore see a reduction in inappropriate HGV traffic on local roads (estimated at 23 HGV movements) along with a reduction in car borne traffic. Public safety is a material planning consideration and where a proposal can be seen to improve this by, for example, reducing HGV traffic on narrow country roads this should be given significant weight.
- 8.12 In the event of planning permission being refused, were the sited to be vacated by the current user, the buildings because of their size, condition and siting could be difficult to re-let and therefore are likely to remain vacant for some time. The risk here is that the appearance of the site will deteriorate while becoming prone to damage and vandalism. Taking into account the prominent location of the site close to houses and a Listed Building, it is considered that these possibilities also represent material considerations.
- 8.13 As such and notwithstanding that the proposal represents unsustainable development in the countryside contrary to the provisions of the NPPF, and policy ENV28 of the adopted local plan, taking into account it (a) will not result in any material loss of economic activity to the Borough (b) involves reuse of brownfield land in accordance with Government policy (c) make a contribution in meeting the



Borough's acknowledged housing shortfall (c) potential improvements to the visual and aural amenity of nearby houses and setting of a Listed Building (d) potential improvements in local highway condition and (e) result in potential wildlife and habitat improvements to the locality and (f) the existence of an extant planning consent for a similar scheme it is considered that the balance issues fall in favour of the principle of the proposal and consideration turns on matters of detail.

**Impact on the rural character and setting of the locality,**

- 8.14 The site is occupied by a prominent group of large buildings and outbuildings of commercial/agricultural appearance and in that sense is not materially different from many existing farm complexes within the Borough. As such if the complex were sited in a less sensitive location it is not considered that there would be any overwhelming visual arguments in favour of its redevelopment for housing and the resulting material improvement in the rural character of the area.
- 8.15 In acknowledging the harm caused by the scale, appearance and use of the existing buildings on adjoining houses and character and setting of the Listed Building, there is the need to consider the impact of the proposed redevelopment on the rural character and setting of the locality.
- 8.16 The existing buildings are concentrated in the northern part of the site. The proposal involves the erection of 6 no two storey dwellings of varying, design, footprint and profile located around a central road.
- 8.17 Dealing with the design of the dwellings, this is one area where the submission varies from the approved scheme. The previous Committee Report in its assessment of the design stated the following:

*'all are traditional in appearance and detailing with features such as projecting gables, chimneys, small pitched roof dormers and canopies along with the use of ragstone, and tile hanging along with a garaging 'barn' to serve the unit proposed on plot 6.'*

*'Such a design approach reflects many design elements already evident in properties abutting the site in Mount Castle Lane and the nearby Listed Building. As such there is considered to be no design objection to the proposed development in its impact on the rural character of the locality'*

- 8.18 The design approach now taken does not reflect the traditional appearance of the earlier scheme. The design incorporates a more 'contemporary' approach but would still use brick and slate as well as timber cladding and aluminium windows. The dwellings incorporate irregular shaped windows and detailing to provide a simple, modern approach to design. Visual interest would remain with the design of the dwellings, through the use of varying footprints, roof pitched and four different house types. For this small-scale development the visual interest of the buildings would be maintained.
- 8.19 Paragraph 60 of the NPPF sets out that:
- 'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.'*

- 8.20 It is considered that the design of the dwellings themselves would be acceptable within this setting, the use of materials and landscaping would allow the dwellings to assimilate within the setting.
- 8.21 To maintain the design integrity of the development and prevent overdevelopment of the site, rights to alter or extend the properties or to erect outbuildings should be withdrawn. In addition to ensure that the night-time rural environment is also protected no external lights should be installed anywhere on site without first obtaining the approval of the Council. It is recommended that planning conditions be added to an approval of permission for these purposes.
- 8.22 Turning to the layout, this is the other area where the scheme differs from the extant consent. The development does not propose a greater number of dwellings and would reduce the footprint of buildings by approximately 44% from existing commercial buildings and by approximately 28% compared to the approved residential scheme. The previous application relating to the amount of development discussed the following:
- 'Concerns relating to the development appeared cramped and overcrowded while having too small gardens are noted. However for the reasons set out above a more concentrated development format is considered appropriate to avoid any increase in the impression of built mass compared to current site conditions.'*
- 8.23 The reduction in footprint seeks to achieve a less cramped layout; there would be increased separation between the dwellings themselves, whilst retaining the inwards orientation of the dwellings facing towards the central part of the site. The courtyard approach previously taken has somewhat dissolved, with the central hardsurfacing solely used for access, however this would result in additional landscaping within the central area of the site and there is no substantive reason to refused permission due to the absence of the central courtyard.
- 8.24 The scheme has been amended to maintain the buffer planting proposed around the southern and western boundaries.
- 8.25 In the circumstances it is considered that there is no sustainable objection to the proposal based on harm to the rural character or setting of the locality.

**Impact on outlook and amenity of properties overlooking and abutting the site**

- 8.26 The houses abutting the site in Mount Castle Lane and the adjoining Listed Building already have their outlook materially affected by the bulk and siting of the existing buildings occupying the site. It is Plots D, E and F that are most likely to impact on the amenity of the neighbouring occupiers (namely 1, 2 and 3 Malt House Cottages and Forstal House).
- 8.27 The northern facing elevation of Plot D and two detached garage would span the rear (southern) boundary of 3 Malt House Cottages, the separation distance of new buildings from the boundary would range from approximately 3 metres reducing to a metre. Distances of between 10 and 18 metres would separate existing and proposed building elevations. The part of the proposed dwelling in closest proximity would have a low eaves height. There would be windows at ground floor level, with two high level feature rooflights within the roof. There is an existing 3 metre high boundary wall along the boundary, with the existing commercial building abutting this boundary.

- 8.28 The previous application was accompanied by cross-sections which demonstrated the difference in height between the proposed and existing buildings. This concluded that the replacement dwellings would exceed the height of the existing commercial building but due to the reduced footprint of the proposed dwellings, resulting in a reduced bulk and prominence of the buildings the development is considered acceptable. It is considered that the same rationale and approach should be taken to the proposed scheme. When compared to the existing commercial buildings the proposal represents an improvement in relation to the bulk and massing of buildings in this location.

**Heritage considerations:**

- 6.31 The NPPF requires the character and setting of Listed Buildings to be safeguarded. As the proposal will result in a material improvement to the setting of the Listed Building and given the support to the proposal from the Heritage Advisor the proposal is considered to be acceptable in its heritage impacts.

**Highways and parking considerations:**

- 6.32 The current commercial use of the site generates a significant volume of both HGV and employee traffic movements. The proposal will therefore remove these HGV movements from inappropriate country roads while reducing employee related car borne traffic.
- 6.34 In relation to car parking 12 garages are to be provided with an additional 12 off street car parking spaces for future occupants and a further 2 visitor spaces. This provision is considered acceptable for the number of units proposed.
- 6.35 Given that the proposal will bring about a material betterment in highway safety and the free flow of traffic and the absence of objection from Kent Highway Services it is considered that the proposal is acceptable in its highway and parking impacts.

**Wildlife considerations:**

- 6.36 The submitted phase 1 habitat survey did not identify any protected species occupying the site while proposing habitat improvements including additional planting to provide habitats for breeding birds and foraging bats along with the installation of 4 bird boxes.
- 6.37 As such in the absence of previous objection from KCC Ecology it is considered that the proposal is acceptable in wildlife terms and meets the provisions of the NPPF.

**Site contamination and drainage:**

- 6.38 Subject to the imposition of a condition requiring a site investigation along with remediation measures (should this prove necessary) there is considered to be no objection to the proposal on site contamination grounds.
- 6.39 Regarding drainage, as the proposal will result in a net reduction in hard surfacing and that a Sustainable Urban Drainage system is proposed and in the absence of objection from the Environment Agency, no objection is raised to the proposal on flooding grounds.
- 6.40 In connection with foul drainage, the existing commercial use of the site (which is already connected to the waste water system) already generates a significant amount

of waste water. As such there will be a considerable reduction in waste water volume. However given the site cross falls it is intended to construct a pumping station in the south east corner of the site to connect with the existing adopted pumping station in The Forstal. This comprises underground chambers and enclosure by 1.2m close boarded fencing. Given the small size of the station no harm to visual amenity is identified.

#### **Other issues**

- 6.41 Condition 1 of the extant approval (14/505358) limited timescales for implementation to one year. The reasoning being '*to secure the prompt delivery of housing in accordance with Government Guidance*'.

The permission for the extant approval expires 26 May 2016. The reasoning for the timescale remain pertinent and therefore it is considered reasonable and necessary to again allow for one year for implementation.

### **9.0 CONCLUSION**

- 9.1 The following conclusions are reached:

- 9.2 Whilst the proposed development does not accord with policy ENV28 of the Maidstone Borough-wide Local plan 2000 or the provisions of the NPPF relating to sustainable housing development in the countryside the balance of issues falls significantly in favour of the proposal and approval is recommended for the following reasons:

- (a) The proposal does not result in any material loss of economic activity to the Borough,
- (b) it involves reuse of brownfield land in accordance with Government policy,
- (c) it makes a contribution in meeting the Borough's acknowledged housing shortfall,
- (d) it will bring about improvements to the visual and aural amenity of nearby houses and setting of a Listed Building while safeguarding the character and setting of the adjoining countryside,
- (e) it reduce HGV and employee traffic resulting in a material improvement to highway safety and the free flow of traffic in the locality and
- (f) will bring about wildlife and habitat improvements to the locality.

- 10.0 RECOMMENDATION – GRANT PLANNING PERMISSION** Subject to the following conditions:

- (1) The development hereby permitted shall be begun before the expiration of one year 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 and to secure the prompt delivery of housing in accordance with Government Guidance.

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans being:

Extended Phase 1 Habitat Survey and Bat Building Report  
Phase I Desk Study (Soils report)  
Drawing Number PR49.01 (Site Location Plan)

Drawing Number PR49.02 Revision B (Existing and Proposed Block Plans)  
Drawing Number PR49.03 Revision C (Proposed Masterplan)  
Drawing Number PR49.04 (Proposed Plot A and C Plans and Elevations)  
Drawing Number PR49.05 (Proposed Plot B Plans and Elevations)  
Drawing Number PR49.06 (Proposed Plot D and E Plans and Elevations)  
Drawing Number PR49.07 (Proposed Plot F Plans and Elevations)  
Drawing Number PR49.08 (Proposed Typical Garage drawing)  
Drawing Number PR49.09 Revision A (Proposed Ground Floor Site Plan)  
Drawing Number PR49.10 (Proposed comparison plan)

Reason: To ensure the quality of the development is maintained in the interests of visual amenity.

- (3) Before the development hereby approved reaches damp proof course level all external materials (including wearing surfaces for the roads, turning and parking areas, shall be submitted for prior approval in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A -H (inc) to that Order shall be carried out without first obtaining the permission of the Local Planning Authority.

Reason: In the interests of visual amenity.

- (5) The development hereby approved shall not be occupied until the parking and turning areas shown on the approved plans have first been provided and shall be retained at all times thereafter with no impediment to their intended use.

Reason: In the interests of highway safety and the free flow of traffic.

- (6) Before first use of the access onto Bull Hill by occupants of the approved development a bound surface shall be provided for the first 5 metres of the access from the edge of the highway.

Reason: To prevent surface material being dragged onto the public highway in the interests of the free flow of traffic and public safety.

- (7) Secure cycle parking shall be provided in accordance with details to be submitted and approved by the Local Planning Authority prior to occupation of the first unit.

Reason: In the interests of sustainability.

- (8) No external lights shall be installed anywhere on site without first obtaining the approval of the Local Planning Authority. Lighting shall only be installed with the approved details and retained as such at all times thereafter.

Reason: To protect the night-time rural environment in the interests of visual amenity.

- (9) Prior to occupation of the first unit details of proposed boundary treatment shall be submitted to and approved by the Local Planning Authority and the scheme shall be carried out in accordance with the approved details. Notwithstanding the provisions

of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no gates, walls, fences or other means of enclosure shall be erected within the application site area other than in accordance with the approved details.

Reason: To enable the Local Planning Authority to protect the visual amenities of the locality.

- (10) The development hereby permitted shall not reach damp proof course level commence until details of the size, design and siting of the following have first been submitted to and approved in writing by the Local Planning Authority being:
- (a) Four integrated sparrow nest bricks (two each to be placed on two dwellings with two facing in an easterly direction on a single dwelling); and
  - (b) Two integrated bat bricks (one each to be placed on two dwellings); and
  - (c) Two integrated swift bricks (one each to be placed on two dwellings).

The above requirements shall not be provided in combination on any dwelling.

The approved details shall be implemented in full prior to occupation and maintained at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the existing populations of protected species and to improve their habitat on the site.

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

Reason: To safeguard existing trees to be retained and to ensure a high quality setting and external appearance to the development.

- (12) Prior to first occupation of any of the dwellings hereby approved details of landscaping (including long term management) for (a) the landscape buffer running along the whole southern and western site boundaries sited as shown on drawing no: PR49.09 Revision A and (b) within the site, shall be submitted for prior approval in writing by the Local Planning Authority. The approved landscaping shall be carried out in the first available planting season. Any part of the approved landscaping scheme becoming dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity.

- (13) The development hereby permitted shall not commence until a scheme for the disposal surface water (which shall in the form of a SUDS scheme) has been

submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To prevent pollution of the water environment and to ensure satisfactory drainage in the interests of flood prevention.

- (14) If, during construction/demolition works contamination not previously identified is found to be present on site, work shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, a closure report shall be submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: In the interests of amenity and public safety.

- (15) All arisings from tree and shrub removal shall be used to create hibernaculum which shall be provided within landscaped areas and retained as such at all times thereafter.

Reason: To ensure that adequate provision is made for wildlife in accordance with the provisions of the NPPF.

### **INFORMATIVES**

1. You are reminded of the legal protection afforded to nesting birds and to ensure that no development is carried which might affect these.
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
3. As the development involves demolition and / or construction broad compliance with the Mid Kent Environmental Code of Development Practice is expected.

4. In carrying out the development you should take into account the requirements of the Environment Agency set out in its letter dated the 8th January 2015 relating to application 14/505358.

Case Officer: Rachael Elliott

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.



**REPORT SUMMARY**

<b>REFERENCE NO - 14/505358/FULL</b>			
<b>APPLICATION PROPOSAL</b> Demolition of existing buildings and erection of 6 dwellings with associated works			
<b>ADDRESS</b> Westmount Packaging The Forstal Bull Hill Lenham Heath Kent ME17 2JB			
<b>RECOMMENDATION</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
<p>The proposed development does not accord with policy ENV28 of the Maidstone Borough-wide Local plan 2000 or the provisions of the NPPF relating to sustainable housing development in the countryside.</p> <p>However as the proposal (a) does not result in any material loss of economic activity to the Borough, (b) involves reuse of brownfield land in accordance with Government policy, (c) makes a contribution in meeting the Borough's acknowledged housing shortfall, (d) will bring about improvements to the visual and aural amenity of nearby houses and setting of a Listed Building while safeguarding the character and setting of the adjoining countryside, (e) reduce HGV and employee traffic resulting in a material improvement to highway safety and the free flow of traffic in the locality and (f) bring about wildlife and habitat improvements to the locality, it is considered that the balance of issues fall significantly in favour of the proposal.</p>			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
<ul style="list-style-type: none"> <li>• The recommendation is a Departure from the Development Plan</li> <li>• The Parish Council object to the proposal</li> </ul>			
<b>WARD</b> Harrietsham And Lenham Ward	<b>PARISH/TOWN COUNCIL</b> Lenham	<b>APPLICANT</b> Mr D Howden <b>AGENT</b> Mrs Harriet Burr	
<b>DECISION DUE DATE</b> 05/03/15	<b>PUBLICITY EXPIRY DATE</b> 05/03/15	<b>OFFICER SITE VISIT DATE</b> 17 <sup>th</sup> December 2014	
<b>RELEVANT PLANNING HISTORY</b>			
None			

**MAIN REPORT**

## **1.0 DESCRIPTION OF SITE**

- 1.01 The site occupies an isolated location in open countryside not subject to any specific landscape designation.
- 1.02 The site is currently in commercial use for the storage, distribution and packing of fruit and vegetables. There are 5 main buildings on the site used for packing, processing and offices with the remainder of the site covered by hardstanding providing for vehicle circulation and parking.
- 1.03 Agricultural land bounds the site to the west and south with residential properties immediately abutting the north and east site boundaries. Access to the site is from Bull Hill to the east.

## **2.0 PROPOSAL**

- 2.01 The proposal involves the demolition of all existing building and their replacement with a cul de sac of 6 no: detached two storey houses comprising 3 no. 4 bedroom and 3 no. 5 bedroom units all with their own private gardens. The current footprint of buildings on site comes to just over 1900 sqr metres with the proposed development reducing this to just over 1400 sqr metres resulting in a 25% reduction.
- 2.02 The dwellings are shown arranged around central paved areas which, the applicants advise, are intended to reflect a traditional farm courtyard layout. The proposed dwellings are shown having either L or T shaped footprints within a 'horse shoe' layout. A total of 12 parking spaces are to be provided plus 3 spaces in car ports. Eight spaces are to be provided in garages.
- 2.03 Dwellings are to be separated by a combination of close board fencing and hedgerows. The southern and western site boundaries are proposed to be contained by a 15 metre wide landscape buffer consisting of a low bund planted with native trees and hedgerows.
- 2.04 The applicants also advise the following:
- Bought the site in 2011 for purpose of growing the business at least expense
  - Previously the site had been vacant and on the market for some time.
  - The business is still growing and needs to relocate to a site better suited to its purposes for the following reasons.
    - (a)The buildings are expensive to maintain while a number of smaller buildings need to be demolished as they are beyond economic repair.
    - (b)Site generates a considerable volume of staff and HGV traffic at The Forstal and on Bull Hill. Activity carried out better suited to locations with access onto good roads and close to main transport corridors.
    - (c)Locality is generally unsuitable for HGV's given the narrowness of the roads making up the immediate highway network.
    - (d) Additional expenditure cannot be justified given that this will not resolve issue of unsuitable buildings in the wrong location.
    - (e) Regarding redevelopment of the site, the requirement is for large warehouses. Redevelopment could not take place on a phased basis but would require the complete cessation of trading while this took place.
    - (f) Cost of financing the redevelopment, relocating and running the business while redevelopment took place (assuming a suitable temporary site could be found)

negotiating a short term lease, removal costs of vacating and returning to the site will place an excessive financial strain on the business.

(g) Can confirm that the target areas for relocation of the business are to the north Maidstone town, Aylesford or Larkfield which are all in the commuting area of existing staff while offering growth potential relevant to the Maidstone labour market area.

2.05 In addition also advise that:

- The current buildings, some of which lie very close to the dwellings fronting Mount Castle Lane, affect the outlook of these dwellings to a considerable degree.
- Site lies in countryside and the buildings represent a considerable built form within the landscape. They are generally not in keeping with the adjacent group of small scale traditional buildings at The Forstal and detract from the contribution those buildings make to the surroundings.
- In view of the above consider that the site is no longer suitable for commercial use and is more suited to residential reuse.
- If planning permission is not granted applicants will have to relocate in any event if they are continue to grow the business. Any sale would be to a purchaser able to use poor quality accommodation.
- Contend that the most likely users would be a speculative purchase for sub-division into small B1 and B8 units though advise that most of the older buildings are already beyond economic repair while the existing warehouse is too deep (40metres) for easy sub-division.
- Marketing prior to the applicant's purchase of the site it did not attract interest from any B1 or B8 users.

2.06 The application is accompanied by an Extended Phase 1 Habitat Survey and Bat Building Report, drainage statement, phase 1 desk study relating to site contamination , Transport and Sustainability Statements and Tree Survey.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: ENV28, T13

### **4.0 LOCAL REPRESENTATIONS**

4.01 **Lenham Parish Council:** Object as development lies outside the village envelope and cannot be considered sustainable. The neighbourhood plan is emerging and premature decisions on applications of more than one dwelling may compromise the aims of the plan.

4.02 11 properties were notified of the proposal – 5 representations received which are summarised as follows:

- No objection in principle to proposed development but concerned over size and density of the houses along with loss of privacy and outlook.
- Cramped overcrowded development with small gardens out of character with surroundings and harmful to character of adjoining hamlet.
- Forstal House will be subjected to unacceptable overlooking from adjoining development while siting of garage to unit 6 blocks access to entrance.
- After existing buildings have been demolished brick wall of suitable height required to safeguard privacy of The Grange.

- Concerned that proposal may make it easier to develop adjoining open land or enable a higher density scheme to be permitted in the future.

## 5.0 CONSULTATIONS

5.01 **MBC Landscape:** No objection

5.02 **MBC Heritage:** The existing large-scale modern farm buildings are unattractive features in the countryside and have some detrimental impact on the setting of the listed Forstal House. The proposal to demolish these buildings and replace them with six new dwellings will result in less of the site being occupied by buildings than is currently the case and will also result in the softening of unbuilt areas, removing the existing extensive hardstanding. The design of the proposed dwellings is of an acceptable vernacular style utilising local materials resulting in an improvement to the setting of the listed building.

5.03 **Kent Highway Services:** The proposal involves use of an existing access while reducing traffic to the site particularly HGVs. Adequate parking and turning is shown along with cycle storage for each dwelling. In addition there have been no reported accidents in proximity to the site in the latest three year period. As such raise no objection subject to imposition of conditions to secure on site parking and turning, surface treatment to access and cycle parking.

5.04 **Environmental Health:** No objection subject to imposition of condition requiring site investigation and remediation.

5.05 **Environment Agency:** No objection subject to conditions requiring site investigation and remediation and controls over surface water disposal.

5.06 **KCC Ecology:** The submitted Extended Phase 1 Habitat Survey and Bat Building Report concluded that the site is of limited ecological interest and that no further ecological surveys are required. Nevertheless the site does provide opportunities for nesting birds and to minimise the potential for impacts a precautionary approach to vegetation clearance and the demolition of the buildings is recommended in the report.

Satisfied that the Extended Phase 1 Habitat Survey and Bat Building Report provides an adequate assessment of the potential ecological impacts.

If planning permission is granted advise that ecological enhancements set in the Extended Phase 1 Habitat Survey and Bat Building Report regarding the provision of bird nest boxes and planting of native species be made the subject of condition.

## 6.0 APPRAISAL

### Need for EIA:

6.01 Dealing first with whether the proposal should have been accompanied by an Environmental Impact Assessment (EIA) no screening opinion was sought by the applicants as to whether one was needed. The proposal is clearly not Schedule 1 development while it does not fall within any of the categories referred to in Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. In the circumstances it is not considered that the impact of the application is such that it triggers the need for an EIA.

**Determining Issues:**

- 6.02 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 6.03 The key issues in relation to this development are considered to be (a) principle, (b) impact on the rural character and setting of the locality (c) impact on outlook and amenity of properties overlooking and abutting the site (d) heritage considerations (e) highways and parking (f) wildlife considerations and (g) site contamination and drainage.

**Principle:**

- 6.04 The site lies within open countryside abutting a row of houses fronting Mount Castle Lane to the north. The eastern most house, The Forstal, is a Grade II Listed Building. The proposal involves the redevelopment of an existing commercial site (falling within the definition of previously developed land set out in Annex 2 of the NPPF) sited in a rural area and remote from any settlement. As such the proposal is principally subject to the provisions of policy ENV28 of the adopted local plan relating to development within the countryside. None of the exemptions set out in policy ENV28 can be seen to apply to this proposal.
- 6.05 Paragraph 55 of the NPPF states, amongst other things, that
- To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
- 6.06 None of the exemptions set out above can be seen to apply to this proposal which is therefore also contrary to the provisions of the NPPF relating to the siting of new housing in the countryside.
- 6.07 Notwithstanding the above, it is considered that there are other material considerations that should be taken into account in assessing whether it is appropriate to consider the redevelopment of this site for housing.
- 6.08 One of the core planning principles set out in paragraph 17 of the NPPF is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. This site clearly falls within the category of previously developed land.
- 6.09. There is also the provisions of the NPPF with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should;

*'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;'*

- 6.10 As of April 2014, the Council was only able to demonstrate a 2.1 year supply of housing assessed against the revised objectively assessed need figure of 18,600. This means that the Council is currently unable to demonstrate a 5 year supply of housing land.
- 6.11 This lack of a five year supply is a significant factor and paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a five year supply cannot be demonstrated. The presumption in favour of sustainable development means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.
- 6.12 The existence of large commercial buildings, which are considered to represent sources of visual intrusion, harmful to the outlook and amenity of houses abutting the site boundary in Mount Castle Lane while also intruding into the setting of The Forstal, a Grade II Listed Building, must be acknowledged. There is also the impact on aural amenity, not only from activities taking place within the buildings but also activities taking place outside, none of which are subject to any planning controls.
- 6.13 The current commercial use of the site ( and in all likelihood any future commercial users of the site) will continue to attract HGV's (both articulated and fixed wheelbase) to the site in addition to car borne employee traffic given the unsustainable location of the site poorly served by public transport. Access to the site is only via narrow country roads unsuitable for HGV's. The proposal will therefore see a reduction in inappropriate HGV traffic on local roads (estimated at 23 HGV movements) along with a reduction in car borne traffic. Public safety is a material planning consideration and where a proposal can be seen to improve this by, for example, reducing HGV traffic on narrow country roads this should be given significant weight.
- 6.14 In the event of planning permission not being granted, were the site to be vacated, the buildings because of their size, condition and siting could be difficult to relet and therefore remain vacant for some time. The risk here is that the appearance of the site will deteriorate while becoming prone to damage and vandalism. Taking into account the prominent location of the site also close to houses and a Listed Building, it is considered that these possibilities also represent material considerations.
- 6.15 As such and notwithstanding that the proposal represents unsustainable development in the countryside contrary to the provisions of the NPPF, and policy ENV28 of the adopted local plan, taking into account it (a) will not result in any material loss of economic activity to the Borough (b) involves reuse of brownfield land in accordance with Government policy (c) make a contribution in meeting the Borough's acknowledged housing shortfall (c) potential improvements to the visual and aural amenity of nearby houses and setting of a Listed Building (d) potential improvements in local highway condition and (e) result in potential wildlife and habitat improvements to the locality, it is considered that the balance issues fall in favour of the principle of the proposal and consideration turns on matters of detail.

**Impact on the rural character and setting of the locality,**

- 6.16 The site is occupied by prominent group of large buildings and outbuildings of commercial/agricultural appearance and in that sense is not materially different from many existing farm complexes within the Borough. As such if the complex were sited in

a less sensitive location it is not considered that there would be any overwhelming visual arguments in favour of its redevelopment for housing in bringing about a material improvement in the rural character of the area.

- 6.17 Nevertheless in acknowledging the harm caused by the scale, appearance and use of the existing buildings on adjoining houses and character and setting of the Listed Building, there is the need to consider the impact of the proposed redevelopment on the rural character and setting of the locality.
- 6.18 The existing buildings are concentrated in the northern part of the site. The proposal involves the erection of 6 no: two storey dwellings of varying, design, footprint and profile looking into a courtyard in which parking, servicing and turning will all take place.
- 6.19 Dealing with the design of the dwellings, all are traditional in appearance and detailing with features such as projecting gables, chimneys, small pitched roof dormers and canopies along with the use of ragstone, and tile hanging along with a garaging 'barn' to serve the unit proposed on plot 6. Such a design approach reflects many design elements already evident in properties abutting the site in Mount Castle Lane and the nearby Listed Building. As such there is considered to be no design objection to the proposed development in its impact on the rural character of the locality. However to maintain the design integrity of the development and prevent overdevelopment of the site, rights to alter or extend the properties or to erect outbuildings should be withdrawn. In addition to ensure that the night-time rural environment is also protected no external lights should be installed anywhere on site without first obtaining the approval of the Council.
- 6.20 Turning to the layout, given that detached houses are proposed and need to provide separation between units, the proposal nevertheless concentrates development around courtyards. Notwithstanding the site constraints and nature of the proposed development, this is considered to represent the optimum layout in minimising the impression of built mass within the site. To further minimise the visual impact of the development from views across open countryside to the south and west it is intended to construct a low embankment topped by 1.2 metre high post and rail fencing and planted with a native species tree belt. It is considered that these measures will effectively screen the development from views from these directions.
- 6.21 Concerns relating to the development appeared cramped and overcrowded while having too small gardens are noted. However for the reasons set out above a more concentrated development format is considered appropriate to avoid any increase in the impression of built mass compared to current site conditions.
- 6.22 In the circumstances it is considered that there is no sustainable objection to the proposal based on harm to the rural character or setting of the locality.

#### **Impact on outlook and amenity of properties overlooking and abutting the site**

- 6.23 The houses abutting the site in Mount Castle Lane and the adjoining Listed Building already have their outlook materially affected by the bulk and siting of the existing buildings occupying the site. Submitted cross section details show that the ridge height of the unit on plot 5 only exceeds that of the cottage fronting Mount Castle Lane by 1 metre. It is acknowledged that the height of the existing commercial building is exceeded by just over 1.5 metres. Nevertheless as the commercial building is much wider and sited hard on the common boundary with the cottage whereas the unit on

plot 5 is set just under 2 metres back from the site boundary, it is considered that the impression of built mass will be substantially reduced.

- 6.24 In addition the unit proposed on plot 6 also exceeds the height of the commercial building that it replaces by just over 1 metre. Again given the reduced width of the dwelling compared to the commercial building it replaces and a separation distance in excess of 11 metres ( currently this is less than 5 metres), this property will also experience a substantial reduction in built mass close to its boundary.
- 6.25 Given the current effect of the commercial buildings abutting or close to the northern site boundary, the proposed development by reducing the impact of built mass on these properties, will therefore bring about material improvement in their outlook. In addition removal of the commercial use will also bring about a material improvement to the aural amenity of houses abutting the site.
- 6.20 Turning to detailed considerations, the main visual impact of the development will be felt by houses abutting the site to the north and east. Dealing first with the impact on Malt House Cottages, wings attached to units 5 and 6 come to within 2 metres of the common boundary with the cottages. However more importantly the separation distances from the rear main wall of these houses is just under 15 metres while both wings are just under 6 metres wide. Given that they are both sited to the south of the cottages, it important to assess their impact on the access of sunlight and daylight. The wing attached to unit 5 will effect the access of sunlight to the nearest cottage to the north from mid afternoon onwards. However this must be compared with the current impact of existing buildings on the site, which given their height and width and proximity to the boundary are materially worse than what will now occur which is also applies to the impact of the wing attached to unit 6.
- 6.26 As such it is considered that the proposal will bring about a material betterment in the access of sunlight and daylight to the cottages abutting the site in Mount Castle Lane. All other existing properties lie to east such that existing standards of daylight and sunlight will remain unaffected by the proposal.
- 6.27 Turning to privacy concerns, the Council's privacy standards are set out in paragraph 4.72 of the adopted extensions SPD. It is acknowledged that these standards specifically apply to extensions. Nevertheless where proposed housing impacts on existing development, it is considered reasonable to apply the provisions of the SPD.
- 6.28 The wing serving unit 5 is two storeys in height with a bedroom window in the end elevation resulting in direct overlooking into part of the rear garden of the adjoining cottage. Though not directly overlooking the 'protected' amenity area i.e. a 5 metre wide zone immediately abutting the rear of the property, this window will give rise to some oblique overlooking and as such should be conditioned to be obscure glazed and fixed shut. The remaining north facing habitable room windows serving unit 5 are all in excess of 20 metres from the 'protected' area thereby meeting the Councils normal privacy standards.
- 6.29 This leaves the impact of the unit on plot 6. The separation distance between habitable room windows and the 'protected' zone serving the cottage to the north are all over 20 metres again meeting the Council privacy standards. Turning to the property to the east of unit 6 given the size and orientation of the garden serving this property there is considered to be no privacy conflict. Concerns have been raised regarding the size and impact of the proposed stable garage being a two storey building designed to appearance as a traditional open fronted cart store. However given the siting of the building just under 20 metres to the west of the nearest house along with a steeply



sloping catslide roof facing towards this property no material harm to visual amenity is identified.

- 6.30 In conclusion given current appearance, size and siting of buildings occupying the site it is considered that the proposal will result in a material betterment in visual amenity terms while safeguarding privacy in accordance with the Councils adopted standards.

**Heritage considerations:**

- 6.31 The NPPF requires the character and setting of Listed Buildings to be safeguarded. As the proposal will result in a material improvement to the setting of the Listed Building and given the support to the proposal from the Heritage Advisor the proposal is considered to be acceptable in its heritage impacts.

**Highways and parking considerations:**

- 6.32 The current commercial use of the site generates a significant volume of both HGV and employee traffic movements. The proposal will therefore remove these HGV movements from inappropriate country roads while reducing employee related car borne traffic.
- 6.34 In relation to car parking 12 parking spaces are to be provided plus 3 spaces in car ports.
- 6.35 Given that the proposal will bring about a material betterment in highway safety and the free flow of traffic and the absence of objection from Kent Highway Services it is considered that the proposal is acceptable in its highway and parking impacts.

**Wildlife considerations:**

- 6.36 The submitted phase 1 habitat survey did not identify any protected species occupying the site while proposing habitat improvements including additional planting to provide habitats for breeding birds and foraging bats along with the installation of 4 bird boxes.
- 6.37 As such in the absence of objection of KCC ecology it is considered that the proposal is acceptable in wildlife terms and meets the provisions of the NPPF.

**Site contamination and drainage:**

- 6.38 Subject to the imposition of a condition requiring a site investigation along with remediation measures (should this prove necessary) there is considered to be no objection to the proposal on site contamination grounds.
- 6.39 Regarding drainage, as the proposal will result in a net reduction in hard surfacing and that a SUD's system is proposed and in the absence of objection from the EA, no objection is raised to the proposal on flooding grounds.
- 6.40 In connection with foul drainage, the existing commercial use of the site (which is already connected to the waste water system) already generates a significant amount of waste water. As such there will be a considerable reduction in waste water volume. However given the site cross falls it is intended to construct a pumping station in the south east corner of the site to connect with the existing adopted pumping station in The Forstal. This comprises three underground chambers and an above ground kiosk which contains the controls for the pumps. The kiosk would be around 800 x 300 x

1000mm high and colour coded dark green. Given the small size of the exposed kiosk no harm to visual amenity is identified.

**Other matters:**

- 6.41 Dealing first with the comments of the Parish Council regarding failure of the proposal to comply with Neighbourhood Plan, as the plan is still at pre regulation 14 stage (i.e. the need to consult on and publicise the provisions of the plan) it cannot yet be taken as material consideration in determination of this application. Nevertheless it is considered that the concerns raised by the Parish Council have been addressed.
- 6.42 Regarding the siting of garage to unit 6 blocking access to entrance this has since been resolved and no further action is necessary while reinstatement of the northern boundary with a wall can be secured by condition.

**7.0 Conclusions:**

- 7.1 These are considered to be as follows:
- 7.2 Notwithstanding that the proposal can be considered to represent unsustainable housing development in the countryside taking into account that it will:
- Not result in any material loss of economic activity to the Borough;
  - Involves reuse of brownfield land in accordance with Government policy;
  - Make a contribution in meeting the Borough's acknowledged housing shortfall
  - Will bring about improvements to the visual and aural amenity of nearby houses and setting of a Listed Building while safeguarding the character and setting of the adjoining countryside.
  - Reduce HGV and employee traffic resulting in a material improvement to highway safety and the free flow of traffic in the locality and;
  - Bring about wildlife and habitat improvements to the locality

it is considered that the balance of issues fall significantly in favour of the proposal and it is recommended that planning permission is granted accordingly.

**8.0 RECOMMENDATION – GRANT** 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) Before the development hereby approved commences details of all external materials (including wearing surfaces for the roads, turning and parking areas) shall be submitted for prior approval in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- (3) The dwellings hereby approved shall achieve a minimum of Level 4 of the Code for Sustainable Homes. The dwellings shall not be occupied until a final Code Certificate has been issued for them certifying that at least Code Level 4 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development.

- (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A -H (inc) to that Order shall be carried out without first obtaining the permission of the Local Planning Authority.

Reason: In the interests of visual amenity.

- (5) The development hereby approved shall not be occupied until the parking and turning areas shown on the approved plans have first been provided and shall be retained at all times thereafter with no impediment to their intended use.

Reason: In the interests of highway safety and the free flow of traffic.

- (6) Before first use of the access onto Bull a bound surface shall be provided for the first 5 metres of the access from the edge of the highway.

Reason: To prevent surface material being dragged onto the public highway in the interests of the free flow of traffic and public safety.

- (7) Secure cycle parking shall be provided in accordance with the approved details.

Reason: In the interests of sustainability.

- (8) No external lights shall be installed anywhere on site without first obtaining the approval of the Local Planning Authority. Lighting shall only be installed with the approved details and retained as such at all times thereafter.

Reason: To protect the night-time rural environment in the interests of visual amenity.

- (9) Before first occupation of any of the dwellings shown on plots 4-6 (inc) a 1.8 metre high imperforate brick wall shall first be along the be erected along the whole length common boundary with properties abutting north and eastern site boundaries.

Reason: In the interests of visual amenity and to safeguard privacy.

- (10) Before first use of the bedroom 2 in the unit on plot 5 the first floor north facing window serving this room shall be glazed in obscure glass and any opening parts prevented by limiter from opening more than 150mm in any direction. The approved measures shall be retained at all times thereafter.

Reason: To maintain privacy in the interest of amenity.

- (11) Following first occupation of any of the houses the size, design and siting of two house sparrow boxes and two open fronted bird boxes shall be submitted for prior approval in writing by the Local Planning Authority. The boxes shall be installed within 3 months of approval and retained as such at all times thereafter.

Reason: To ensure that adequate provision is made for wildlife in accordance with the provisions of the NPPF.

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

Reason: To safeguard existing trees to be retained and to ensure a high quality setting and external appearance to the development in accordance with the National Planning Policy Framework (2012).

- (13) Prior to first occupation of any of the dwellings hereby approved details of landscaping (including long term management) for (a) the landscape buffer running along the whole southern and western site boundaries sited as shown on drawing no: DHA/10341/03 and (b) within the site, shall be submitted for prior approval in writing by the Local Planning Authority. The approved landscaping shall be carried out in the first available planting season. Any part of the approved landscaping scheme becoming dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity.

- (14) The development hereby permitted shall not commence until a scheme for the disposal surface water (which shall in the form of a SUDS scheme) has been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To prevent pollution of the water environment and to ensure satisfactory drainage in the interests of flood prevention.

- (15) If during construction/demolition works contamination not previously identified is found to be present on site work shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

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

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: In the interests of amenity and public safety.

- (16) The development hereby permitted shall be carried out in accordance with the following approved plans being drawing nos:DHA/9796/01, 02, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 10341/03 and J49.11/01.

Reason: To ensure the quality of the development is maintained in the interests of visual amenity.

## INFORMATIVES

1.You are reminded of the legal protection afforded to nesting birds and to ensure that no development is carried which might affect these.

2.It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

3.As the development involves demolition and / or construction broad compliance with the Mid Kent Environmental Code of Development Practice is expected.

4.In carrying out the development you should take into account the requirements of the Environment Agency set out in its letter dated the 8th January 2015 (Copy attached)

## Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

## Planning Committee Report

Following clarification of the submitted details the application was acceptable

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



## REPORT SUMMARY

<b>REFERENCE NO -</b> 16/500889/FULL		
<b>APPLICATION PROPOSAL</b> Variation of Condition (02) of planning permission MA/13/1348 - Demolition of redundant cattle shed and other structures and conversion of traditional courtyard buildings to provide 2 dwellings with access, parking and landscaping (to allow the use of hand-made clay tiles in place of Kent peg tiles).		
<b>ADDRESS</b> Street Farm The Street Boxley Kent ME14 3DR		
<b>RECOMMENDATION</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The details of the reserved matters are considered to comply with the policies of the Development Plan, where relevant, and the National Planning Policy Framework, and there are no overriding material considerations to indicate a refusal of planning consent.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> - Boxley Parish Council wish to see the application refused and reported to planning committee		
<b>WARD</b> Boxley	<b>PARISH COUNCIL</b> Boxley	<b>APPLICANT</b> Mr Kevin Done
<b>DECISION DUE DATE</b> 11/04/16	<b>PUBLICITY EXPIRY DATE</b> 11/03/16	<b>OFFICER SITE VISIT DATE</b> 19/02/16
<b>RELEVANT PLANNING HISTORY:</b>		

14/501511 – Conversion of redundant farm building to dwelling - Approved

MA/14/0682 - An application to discharge conditions relating to MA/13/1348 (Demolition of redundant cattle shed and other structures and conversion of traditional courtyard buildings to provide 2 no. dwellings) being conditions 3 (materials), 6 (landscaping), 8 (fencing), 9 (drainage), and 12 (lighting). – Approved

MA/13/1348 - Demolition of redundant cattle shed and other structures and conversion of traditional courtyard buildings to provide 2 dwellings with access, parking and landscaping – Approved

MA/10/1732 - Demolition of redundant cattle shed and other structures and conversion of disused traditional courtyard buildings to provide 4 dwellings with access, parking and landscaping - Approved

## MAIN REPORT

### 1.0 Site description

1.01 'Street Farm' is located on the western edge of Boxley village, and for the purposes of the development plan it is within the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty (AONB) and the North Downs Special Landscape Area (SLA). Within the complex of 'Street Farm', the 2 southernmost single storey buildings have been converted into 3 residential properties and the farm building to the north of these is in a state of disrepair. The site is accessed from 'The Street' some 90m to the south via the farm access. To the south and west of the site is a large open arable field and immediately west is a large modern agricultural building. To the north are semi-detached dwellings 2 & 3 Street Farm Cottages and their gardens; and to the east are the dwellings 'Malthouse Cottage' (Grade II listed), 'Yew Tree House' (Grade II



listed) and 'Boxley Oast' and their gardens. The Boxley Conservation Area abuts the eastern boundary of 'Street Farm'.

## **2.0 Background history**

- 2.01 Planning permission was granted under MA/10/1732 for the conversion of 3 of the buildings into 4 houses. Subsequent to this, permission under MA/13/1348 was granted for a number of changes to units 3 and 4 (to the south-east of the site); and permission under 14/501511 was granted for a number of changes to unit 2 (to the south-west of the site).

## **3.0 Proposal**

- 3.01 This application now seeks to vary condition 2 of MA/13/1348, which states:

*Within 3 months of the date of this permission written details and samples of the materials to be used for the conversion works to the building to include handmade clay bricks, clay Kent-peg roof tiles and black stained featheredge weatherboarding and details of new hard surfacing shall be submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;*

*Reason: To ensure the appearance and the character of the buildings, the setting of the listed buildings and Conservation Area is maintained.*

- 3.02 The applicant has installed hand made clay tiles instead of Kent-peg roof tiles from the beginning, despite fully discharging the condition in August 2014 under MA/14/0682 (which was never carried out).
- 3.03 Currently on site, units 3 and have been finished with the alternative hand made clay tiles.

## **4.0 Policies and other considerations**

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV33, ENV34, ENV45
- National Planning Policy Framework (2012)
- National Planning Practice Guidance (2014)
- Draft Maidstone Borough Local Plan (Regulation 19)

## **5.0 Consultee responses**

- 5.01 **Boxley Parish Council:** Wish to see the application refused;

*"Permission for the traditional farmyard buildings to be converted to residential dwellings was granted in 2013 with the condition that handmade Kent peg tiles were used. MBC identified that this, and other condition, was needed, "to ensure the appearance and character of the buildings, the setting of the listed buildings and the conservation area is maintained". This development is immediately adjacent to the Boxley Village Conservation area and is on the edge of the village which is within the AONB. Street Farm is a prominent site and is visible from the North Downs and also as you approach/enter the village from the south; with its traditional courtyard layout and the large roofed structures the parish council considers that the original condition should be upheld. The original planning application made much of the need to ensure a traditional look and to have a specific design with high grade materials. To now compromise on the roofing*

*materials will make a mockery of the original permission and adversely impact on the visual amenity of the AONB, the conservation area and the appearance and character of the buildings. A quick search of the internet has found numerous sites that offer handmade and reclaimed Kent Peg Tiles and so the argument that they are difficult to source is not accepted."*

**5.05 Conservation Officer:** Raises no objection on heritage grounds;

*"The alternative tiles have already been installed. Bearing in mind that the buildings are not listed and lie outside the conservation area, and that we have approved the use of similar Tudor roof tiles on other agricultural conversions, I consider that it would be difficult to resist their use here. In my view they are of acceptable appearance and do no harm to the significance of the conservation area or nearby listed buildings."*

**6.0 Neighbour responses**

- 6.01 3 representations received objecting to the change of roof tiles as they are not in keeping with the character and appearance of the buildings or the surrounding area and that Kent peg tiles are readily available.

**7.0 Principle of development**

- 7.01 The principle for the residential conversion of the building has already been accepted under MA/13/1348; and this application is only concerned with the impact of the alternative roof tiles.

**8.0 Visual impact**

- 8.01 Under previous planning applications for the residential conversion of the buildings on 'Street Farm', it was specified that Kent peg roof tiles were used to ensure the appearance and the character of the buildings, the setting of the near-by listed buildings and the adjacent Conservation Area are maintained.

- 8.02 On balance, and after viewing the hand-made clay tiles in situ and taking into account the Conservation Officer raising no objection, it is considered that the roof tiles in place do not cause harm to the integrity of the building or its farmstead setting, or to the character and appearance of the countryside hereabouts that falls within an AONB and SLA, or to the significance and setting of the near-by listed buildings and adjacent conservation area to warrant refusal.

**9.0 Other considerations**

- 9.01 In accordance with National planning policy, the issue of intentional unauthorised development is a material consideration in the determination of this retrospective application. In this instance the development is not considered to cause harm and so this is not grounds to object to this application.

## 10.0 Conclusion

10.01 It is considered on balance that the proposal is acceptable with regard to the relevant provisions of the Development Plan, the National Planning Policy Framework, and all other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis subject to a legal agreement as set out below.

### RECOMMENDATION – APPROVE

- (1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no development within Schedule 2, Part 1, Class(es) A, B, C, D, E, F, G, Part 2, Class A and Part 14 Class(es) A and B to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To ensure the appearance and the character of the buildings, the setting of the listed buildings and Conservation Area is maintained.

- (2) The development shall be carried out in accordance with the approved materials of handmade clay bricks, hand-made clay tiles and black stained featheredge weatherboarding and details of new hard surfacing shall be submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure the appearance and the character of the buildings, the setting of the listed buildings and Conservation Area is maintained.

- (3) All rainwater or wastewater pipes shall be constructed of black-painted cast iron or aluminium;

Reason: To ensure the appearance and the character of the buildings, the setting of the listed buildings and Conservation Area is maintained.

- (4) New internal and external joinery shall be carried out in accordance with the details as approved under MA/13/1348;

Reason: To ensure the appearance and the character of the buildings, the setting of the listed buildings and Conservation Area is maintained.

- (5) The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (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.

- (6) The development hereby approved shall be carried out in accordance with the landscaping scheme as approved under MA/14/0682 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 visual appearance and setting to the development.

- (7) The development hereby approved shall be carried out in accordance with the boundary treatments as approved under MA/14/0682 and maintained thereafter unless otherwise agreed in writing by the local planning authority;

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

- (8) The development hereby approved shall be carried out in accordance with the surface and foul water drainage details as approved under MA/14/0682;

Reason: In the interest of pollution prevention.

- (9) The recommendations set out in the 'Ecological Survey' carried out by 'Roger L Jones' (received on 5th October 2010) and the 'Letter of Opinion' carried out by 'Wildthing Consultants' (received on 5th October 2010) shall be followed where relevant unless otherwise agreed in writing by the Local Planning Authority;

Reason: In the interests of biodiversity and ecology.

- (10) The dwellings shall achieve a BREEAM Ecohomes 'Very Good' Level. No dwelling shall be occupied until a Certificate has been issued for it certifying that a 'Very Good' Level has been achieved.

Reason: To ensure a sustainable and energy efficient form of development.

- (11) The development hereby approved shall be carried out in accordance with the boundary treatments as approved under MA/14/0682 and no additional lighting shall be installed unless agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory visual appearance and setting to the development.

- (12) If during the works contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Reason: To prevent harm to human health and pollution of the environment.

- (13) Upon completion of the building works, a contaminated land closure report shall be submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

a)Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

b)Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c)If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To prevent harm to human health and pollution of the environment.

- (14) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing nos. SF/SP/3-4, SF/L1/3-4, SF/L2/3-4, SF/EE/3-4, SF/PP/3-4, SF/ER/3-4, SF/J1/3-4, SF/J2/3-4, SF/J3/3-4, SF/J4/3-4 received on 31st July 2013, SF/L/3-4, received on 8th August 2013, and SF/PE/3-4/a received on 25th September 2013.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

Case Officer: Kathryn Altieri

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



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

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