

# AGENDA

## PLANNING COMMITTEE MEETING



Date: Thursday 27 April 2017  
Time: 6.00 p.m.  
Venue: Town Hall, High Street,  
Maidstone

### Membership:

Councillors Boughton, Clark, Cox, English,  
Harwood, Hastie, Hemsley, Munford,  
Perry (Chairman), Powell,  
Prendergast, 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 Items withdrawn from the Agenda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 - Tuesday 2 May 2017

**Continued Over/:**

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**Issued on Wednesday 19 April 2017**

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 6 April 2017 - to follow
11. Presentation of Petitions (if any)
12. Deferred Items 1
13. 16/504892 - Headcorn Hall, Biddenden Road, Headcorn, Kent 2 - 31
14. 16/505966 - Railway Tavern, Station Road, Staplehurst, Kent 32 - 48
15. 16/508545 - 4 Quarter Paddocks, Bletchenden Road, Headcorn, Kent 49 - 55
16. Application 15/503288/OUT - Land at Woodcut Farm, Ashford Road, Hollingbourne, Maidstone, Kent 56 - 118
17. Appeal Decisions 119
18. 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**

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|---|--|
| 19. Legal Advice Relevant to Application 15/503288/OUT - Land at Woodcut Farm, Ashford Road, Hollingbourne, Maidstone, Kent (to be circulated separately) | 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings |
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**PLEASE NOTE**

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

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

**For full details of all papers relevant to the applications on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection by appointment during normal office hours at the Maidstone Borough Council Reception, King Street, Maidstone, Kent ME15 6JQ.**

# Agenda Item 12

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**27 APRIL 2017**

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

##### **DEFERRED ITEMS**

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><u>APPLICATION</u></b>	<b><u>DATE DEFERRED</u></b>
<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>  Deferred to enable the Officers to negotiate movement of the signage to locations that are less visually intrusive.	14 January 2016
<u>16/507491 - DEMOLITION OF EXISTING BUILDING AND ERECTION OF 19 NO. APARTMENTS - 3 TONBRIDGE ROAD, MAIDSTONE, KENT</u>  Deferred to:  (a) Obtain an Air Quality Assessment; and  (b) Reconsider the design and layout in the light of the Air Quality Assessment; this to be landscaped, including trees and planting on the Tonbridge Road frontage, and the treatment of the elevations to be reconsidered to improve amenity for future occupants.	16 March 2017



## REPORT SUMMARY

<b>REFERENCE NO - 16/504892/FULL</b>			
<b>APPLICATION PROPOSAL</b> Demolition of Headcorn Hall and associated outbuildings and erection of 14 houses (10 four bedroom and 4 five bedroom). Creation of new vehicular access from Shenley Road. Provision of access road. Landscaping and associated infrastructure, existing access from Biddenden Road to be closed.			
<b>ADDRESS</b> Headcorn Hall, Biddenden Road, Headcorn, Kent, TN27 9JD			
<b>RECOMMENDATION</b> GRANT PERMISSION SUBJECT TO CONDITIONS			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>• The brownfield part of the application site has a long history of residential use and the residential development of this land and adjoining greenfield land is acceptable.</li> <li>• Whilst the housing land supply in the borough is currently in excess of five years the need for a five year supply is a rolling requirement and the application site with previous residential uses and the two committee resolutions for similar developments is considered suitable to provide for future need.</li> <li>• Whilst the site is not located within any of the areas listed in the sustainable settlement hierarchy the site is located a short distance from the rural service centre of Headcorn which is second in this hierarchy.</li> <li>• The design and appearance of the development is in keeping with the character of the surrounding area. The development is acceptable in relation to the impact on local residential amenity including loss of daylight, sunlight, outlook and privacy.</li> <li>• The proposal will provide a good standard of the residential accommodation (including in relation to air quality, noise and ground contamination).</li> <li>• The proposal is acceptable in relation to flooding and drainage, impact of the proposal on the local highway network and impact on trees and ecology.</li> <li>•</li> </ul>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Departure from the development plan (no affordable housing and contrary to policy ENV28)			
<b>WARD</b> Headcorn	<b>PARISH/TOWN</b> Headcorn	<b>COUNCIL</b>	<b>APPLICANT</b> Clarendon Homes <b>AGENT</b> N/A
<b>DECISION DUE DATE</b> 18/11/16	<b>PUBLICITY EXPIRY DATE</b> 16/09/16	<b>OFFICER SITE VISIT DATE</b> 25/08/2016	
<b>RELEVANT PLANNING HISTORY:</b>			
<b>Application site:</b>			
<b>App No.</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/506919/ DEMREQ	Prior Notification for the demolition of former Headcorn Hall building and outbuildings (former garage)	Issued	30.09.2016

12/1554	Demolition of existing property Headcorn Hall and associated outbuildings and erection of 10 detached houses; creation of new vehicular access via Shenley Road and provision of access road and associated landscaping	Withdrawn by the council	Resolution to approve by Com. (13.12.12).
11/1240	Demolition of existing property known as Headcorn Hall and erection of 10 five bedroom detached houses together with garaging, parking and amenity. New access to be formed onto Shenley Road and existing access on to Biddenden Road to be closed.	Withdrawn by the council	08.12.2011
10/0712	Application to extend the time limit for implementing permission MA/05/0347 being (Extension to and conversion of existing nursing home to form 7 no one bedroom and 7 no two bedroom flats) as described in application MA/10/0712	Approved	22.03.2011
10/0555	Demolition of existing property known as Headcorn Hall and erection of 10 five bedroom detached houses together with garaging, parking and amenity. New access to be formed onto Shenley Road and existing access on to Biddenden Road to be closed.	Withdrawn by the council	Resolution to approve by Com. (07.04.11).
09/1593	Erection of a two storey 60 bed care home with parking, access and landscaping	Refused	04.12.2009
09/1617	Outline planning permission for erection of 5no. detached dwellings with amenity space and associated works including parking and access with access to be considered as this stage and all other matters reserved for future consideration	Refused	04.11.2009
05/0347	Extension to and conversion of existing nursing home to form 7 no one bedroom and 7 no two bedroom flats	Approved	05.05.2005
03/1599	Conversion of existing building into 7 no. flats and construction of rear wing for 8 no. flats together with the construction of a new access onto Shenley Road.	Refused	16.02.2004
03/0443	Conversion of existing building into 7 flats and erection of rear wing for 10 No. flats.	Withdrawn	28.06.2003
88/2337	Outline application for the erection of 14 retirement bungalows and community area.	Refused	28.04.1989
82/0904	40 person nursing home (Headcorn Hall retained)	Approved	11.01.1984
<b>Site adjacent existing site entrance - Hall Lodge and Hall Lodge Cottage Biddenden Rd.</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
11/1850	Lawful development certificate for existing use of the former garage building as a self-contained independent dwellinghouse.	Approved	21.12.2011

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The application site covering an area of 1.9 hectares is located on the east side of Biddenden Road (A274). The site is 0.7 miles to the south-east of the Headcorn settlement boundary.

- 1.02 The existing site access is the only frontage on to Biddenden Road with remainder of the site set behind the detached dwellings Hall Lodge and Hall Lodge Cottage. Hall Lodge Cottage was originally a detached garage linked to Hall Lodge; the building was converted to a dwelling without planning permission but now has a certificate of lawful development for this use (see planning history).
- 1.03 The Biddenden Road, Shenley Road, Bletchenden Road crossroads is located 127 metres to the north of the existing site access in Biddenden Road. The land separating the application site from the crossroads is owned by the applicant but does not form part of the current planning application. The trees on this adjacent land are covered by a Woodland Tree Protection Order. The application site has a 125 metre long tree lined boundary to Shenley Road to the north.
- 1.04 The application site is located in open countryside, with the character of the area consisting of open fields with sporadic residential development and roads lined with trees and bushes. In contrast to this local open character, the Shenley Park mobile home site is located immediately to the north west of the nearby crossroads. This site accessed from Bletchenden Road has a dense layout of around 40 mobile homes.
- 1.05 To the north and east of the application site on the opposite side of Shenley Road is Headcorn Aerodrome. To the south and east of the application site are open fields with Hall Farm (including an equestrian use) located further to the south and Shenley House, a grade II listed house located 260 metres to the east. The applicant owns a further strip of land that runs alongside the western site boundary but this land does not form part of the current application site.
- 1.06 The ground level on the application site is generally flat with little change in levels. Approximately half of the site is open fields, with the other half originally occupied by Headcorn Hall. Headcorn Hall was on land that was approximately 0.8 metres higher than the lowest parts of the site.
- 1.07 Headcorn Hall was a two/three-storey building with steep pitched roofs incorporating various extensions and a one/two-storey outbuilding. The building had 15 bedrooms, a lounge, and dining and kitchen facilities on ground and first floors, with staff rooms on the second floor. The building set in substantial grounds, including two access drives and a parking for 8 cars. The building was originally a domestic dwelling but more recently was used as a residential care home.
- 1.08 It was reported that the building was unviable as a care home due to its small size and layout of the rooms. The building fell into disrepair after the care home use ceased in 2003. The demolition of Headcorn Hall was accepted in committee resolutions to approve (subject to legal agreements) two earlier planning applications (10/0555 and 12/1554). These legal agreements were never signed by previous site owners and the applications subsequently withdrawn with further background information on this provided below. With no permission in place for demolition and reported health and safety issues, the current site owner/applicant (who subsequently purchased the site) received prior approval for the demolition of Headcorn Hall in September 2016.
- 1.09 The site is located in the Low Weald Special Landscape Area in the adopted Maidstone Borough Wide Local Plan (2000) and as a 'Landscape of Local Value' under the emerging Local Plan (submission version 2016). A small area in the southern part of the site is identified as land at risk from flooding (zones 2 and 3).



The site is not located within a conservation area, or area designated for its biodiversity value.

## **2.0 PROPOSAL**

- 2.1 A planning application was submitted for ten dwellings on the application site under 10/0555. This application was reported to Planning Committee on 7 April 2011. Members resolved to grant consent subject to the completion of a Section 106 for contributions and a ten year landscape management plan. The Section 106 agreement had been agreed and was in its final stages of completion.
- 2.2 Following marketing advice from local agents the applicant considered that the proposed scheme would not be viable. As a result a revised planning application was submitted, 11/1240, for ten houses with a more traditional design style. However, during the course of the application the applicant opted to sell the application site on to Redrow Homes.
- 2.3 As a result of the change in ownership planning application 11/1240 was not pursued and Redrow Homes put in a revised planning application (12/1554). The revised planning application was essentially a substitution of plot types for the original scheme (10/0555). The strategic landscaping and ecological enhancements remained as previously proposed with the design of the houses altered. The application site was subsequently sold again with planning application under reference 12/1554 again not pursued and the current application submitted by the new owner.
- 2.4 The submitted proposal is for the construction of 14 detached properties on this site consisting of 10 four bedroom houses and 4 five bedroom houses. The proposal includes the relocation of the site access from Biddenden Road to Shenley Road with a new north/south estate road running through the site. The development will provide 28 off street car parking spaces with two external spaces on the front drive of each proposed houses with a further 28 spaces provided in double garages. Cycle parking space is provided within the proposed garages.
- 2.5 The proposed dwellings are either 1, 1.5 or 2 storeys in height, with proposed roof ridge heights of between 8.3 metres and 8.6 metres (ridge heights approved under 12/1554 were 8.9 to 9.4 metres). The buildings are designed in a traditional architectural style to reflect the character of the local area, including facing brickwork, areas of render and tile hanging to the upper storeys. Brickwork feature banding string courses and plinths also provide interest on the main building elevations.

Table 1: Key facts and figures

	Proposed
Site area	1.9 hectares
Approximate ridge height	8.3 to 8.6 metres
Approximate eaves height	5 to 5.2 metres,
No. of storeys	1, 1.5 or 2 storeys
Net floor area	205 to 304 square metres
No. of residential units	14
No. of affordable units	0
No of car parking spaces	28 spaces (counting double garages total of 56 spaces)

## **3.0 POLICY AND OTHER CONSIDERATIONS**

- 3.01 Maidstone Borough-Wide Local Plan 2000:  
 Until the Maidstone Borough Local Plan is adopted, full weight should continue to be given to the policies in the adopted Maidstone Borough Local Plan (2000) where these policies are consistent with the National Planning Policy Framework.  
 Policy ENV6: Landscaping, Surfacing and Boundary Treatment;  
 Policy ENV28 Development in the countryside;  
 Policy ENV34 Special landscape areas;  
 Policy ENV49 External lighting;  
 Policy T1: Integrated transport strategy;  
 Policy T13: Parking standards;  
 Policy CF1: Seeking New Community Facilities
- 3.02 Supplementary Planning Documents:
- Affordable Housing Development Plan Document (2006);
  - Open Space Development Plan Document (2006);
  - Kent Design Guide Review: Interim Guidance Note 3: Residential Parking;
- Headcorn Neighbourhood Plan
- 3.03 The relevant policies in the draft neighbourhood plan are
- |       |   |
|-------|---|
| HNP1  | Design policies for Headcorn                                      |
| HNP2  | Protection of Headcorn's historic and natural environment         |
| HNP3  | Water Management and dealing with the risk of flooding            |
| HNP9  | Affordable homes  |
| HNP12 | Potential strategic housing development sites in Headcorn Village |
| HNP13 | Density and site coverage   |
- 3.04 The Final Examiner's Report on the Headcorn neighbourhood Plan was published on 19 March 2017. In his report the examiner set out a number of failings that were found with the submitted neighbourhood plan.
- 3.05 These failings included a misalignment in the attitude to growth between Headcorn Parish Council and Maidstone Borough Council. The parish council argument that the settlement is relatively inaccessible was contrary to the Rural Service Centre designation of Headcorn in the emerging Local Plan, and the consideration of Headcorn in the adopted Local Plan as a sustainable settlement suitable for growth.
- 3.06 The methodology used by Headcorn to assess future housing needs was challenged by the examiner as it differed from the method in the borough-wide Strategic Housing Market Assessment. The neighbourhood plan proposed a cap on the number of dwellings to be built, which the examiner felt seemed arbitrary, and would be contrary to paragraph 47 of the NPPF.
- 3.07 The proposed annual restriction on the number of dwellings was also deemed to be unduly restrictive by the examiner and not in keeping with national policy and the Government's desire to boost housing supply. The plan policy proposed a limit of 20% affordable housing on development of more than 9 dwellings. Such a policy position would be in direct conflict with the borough-wide adopted position of 40% and with emerging policy in the new Local Plan. There would also be an issue in regard to the threshold of 9 dwellings given the Written Ministerial Statement of 28 November 2014 (upheld by the Court of Appeal 13 May 2016) and Planning Practice Guidance updates of 16 November 2016 requiring provision on sites of 'more than ten' dwellings.

- 3.08 As a result of his conclusions the examiner recommended, in accordance with legislation that the NDP should not proceed to a local referendum. A report was due to be considered at the Strategic Planning, Sustainability and Transportation Committee on the 11 April 2017; however a decision was deferred to allow further consideration and to seek legal advice on a late representation. Whilst a final committee decision has not been made on the examiner's report, it is considered that due to the conclusions set out above very limited weight should be attached to the draft Headcorn Neighbourhood Plan.
- 3.09 The National Planning Policy Framework (NPPF)  
The National Planning Policy Framework is a key material consideration, particularly with regard to housing land supply. Other relevant guidance includes that relating to sustainable development, landscape and traffic
- 3.10 National Planning Practice Guidance (NPPG)  
Advice on the following is relevant air quality; climate change; renewable and low carbon energy; travel plans, transport assessments and statements; use of planning conditions, viability, community infrastructure levy; design and noise;
- 3.11 Maidstone Borough Council draft Local Plan (Submission Version):  
Paragraph 216 of the NPPF states that from the day of publication, decision-takers may give weight to relevant policies in emerging plans. The weight to be attached is relative to the following factors:
- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
  - The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 3.12 A schedule of proposed main modifications to the submission version of the Local Plan were discussed at Local Plan Examination Hearings on 1 December 2016 and 24 January 2017. On both occasions the Inspector went through the schedule of proposed main modifications in detail, indicating where he required adjustments to specific wording and content.
- 3.13 The proposed main modifications constitute the full list of changes which the Inspector thinks at this stage will be needed for him to be able to find the Plan sound. The proposed main modifications are published for public consultation between 31 March and the 19 May without prejudice to the Inspectors final conclusions on the Plan.
- 3.14 In relation to paragraph 216 of the NPPF the Regulation 19 version of the Local Plan already carries significant weight in the determination of planning applications. Whilst the volume and nature of the objections there may be and what the Inspector may recommend in response is not known at this stage, the publication of the proposed main modifications represents a further advancement in the Plan preparation process.
- 3.15 As consistency with national guidance is one of the tests of soundness, it is reasonable to assume that the Inspector considers, at this stage, the proposed main modifications to be consistent with the NPPF. The policies which are subject to

proposed main modifications have therefore reached an advanced stage but they could be subject to some change as a result of the current consultation. In these circumstances it is considered reasonable to apply significant weight to the proposed main modifications at this point.

- 3.16 The policies which do not have proposed main modifications are not subject to further public consultation. The implication is that the Inspector does not consider that changes are required to these policies for soundness. Whilst the position will not be certain until the Inspector issues his final report, a reasonable expectation is that these policies will progress unaltered into an adopted Local Plan. In these circumstances, it is considered that approaching full weight can be afforded to these policies in the determination of planning applications.
- 3.17 The relevant policies are as follows (submission draft references given are subject to change as part of the published main modifications):
- Policy SP5: Rural service centres;
  - Policy SP17: Countryside;
  - Policy DM1: Principles of good design;
  - Policy DM2: Sustainable design;
  - Policy DM3: Historic and natural environment;
  - Policy DM7: External lighting;
  - Policy DM11: Housing mix;
  - Policy DM12: Density of housing development;
  - Policy DM13: Affordable housing;
  - Policy DM22: Open space and recreation;
  - Policy DM23: Community facilities;
  - Policy DM24: Sustainable transport;
  - Policy DM25: Public transport;
  - Policy DM27: Parking standards;
  - Policy DM34: Design principles in the countryside;
  - Policy ID1: Infrastructure delivery.
- 3.18 In relation to the weighting set out in paragraphs 3.15 and 3.16 above, there are no major modifications proposed to policies SP5; DM1; DM2; DM22; DM23; DM25; DM27. Major modifications are proposed to policies SP17, DM3, DM7, DM11, DM12, DM13, DM24, DM34; and ID1. The final inspector's report is due at the end of July with adoption of the plan anticipated in mid September 2017.

#### **4.0 LOCAL REPRESENTATIONS**

- 4.01 The submitted planning application was publicised by means of a site notice, a press notice (defined 'major' development) and individual consultation letters sent to neighbouring addresses.
- 4.02 As a result of this consultation one response has been received. The neighbour makes the following comments on the application *"I have no objections to the application other than my privacy is respected and I am not overlooked both during the building process and on completion. I have read most of the supporting documentation and there is a mention of my property Hall Lodge and garage. The garage is in fact a registered dwelling - Hall Lodge Cottage. Also Hall Lodge is described as a single storey property where it does have a second storey likewise Hall Lodge Cottage"*.

#### **5.0 CONSULTATION**

Headcorn Parish Council

- 5.01 No objection. The committee reviewed this application at some length discussing the merits and drawbacks for this site that sits outside the village boundary. It was noted that MBC had designated this site as a brownfield one yet it was felt given the environment and surrounding that much of this site is in fact greenfield.
- 5.02 The issue of road safety at the junction of A274 and Shenley was discussed and although the entrance to the site had been moved from directly off the A274 to Shenley Road, this development will still add burden to what is already a very dangerous junction.
- 5.03 Cllr Davies suggested that construction of a roundabout at this junction would alleviate many of the problems and keep traffic flowing. It was noted that the Headcorn Neighbourhood plan does not support development of this kind given its distance from the existing Headcorn village boundary. It was however noted that this site is a redundant part brownfield site; it is contained; and it is not on the flood plain.
- 5.04 The committee were concerned that the development may pose problems for the adjacent airfield and they felt that this should be pointed out as part of the HPC response as they are in support of the aerodrome. The application was approved by 6 votes and the Chair abstained. The council therefore wish to see this application approved subject to completion of traffic calming measures. If the planning officer is minded to approve the application without the traffic calming measures then referral to the planning committee is required.

Headcorn Aerodrome

- 5.05 There is a concern that the development of the application site will lead to objections from future residents of the development in relation to noise and disturbance and this will put pressure on the long term future of the airfield including potential future use by the Kent Air Ambulance.

Kent County Council Community Services

- 5.06 No objection subject to planning obligations to mitigate the additional pressure on local library services at a rate of £48.02 per household. Although there are Primary and Secondary educational needs, due to the current Government CIL restrictions, KCC are unable to request obligations in these areas. An informative is recommended in relation to broadband provision.

Kent Police

- 5.07 The applicant is advised to contact the Police to incorporate secure by design measures into the development.

Kent County Council Drainage

- 5.08 The planning application is supported by a Flood Risk Assessment and Drainage Strategy prepared by BdR (August 2016). It is proposed to manage surface water generated on site by attenuation with discharge to the adjacent ditch system on the northern boundary of the site. Attenuation is proposed to be provided within the pavement of the access road and geocellular storage. An outline drainage schematic is presented in Drawing C1205 within Appendix 6 of the FRA.
- 5.09 Post-development, the site will discharge to a ditch within the area of the Upper Medway IDB. Topographically it is suggestive that only a portion of the site contributes to this location. It is recommended that the IDB is consulted with respect to discharge destination. No information has been provided with the respect to the condition of the ditch or its ultimate destination and whether it is part of an extended ditch system. Reference is made to ground investigations undertaken by SoilTech

Laboratories, which demonstrates that the site is underlain by clay but also includes reference to standing water at shallow depths in window samples. BGS data suggests that shallow ground water may be present for areas of the site. It would be important to assess the extent of this constraint across the site as it has implications for utilisation of below ground storage.

- 5.10 Emphasise that design must comply with the “Drainage and Planning Policy Statement” adopted by Kent County Council. This encapsulates the requirements of the Non-Statutory Technical Standards published by Defra in 2015. One key point is that the design of system may allow for surcharge in the 1 in 30 year event but must not have any surface flooding for this event. The calculations included within the FRA show flooding for the 1 in 30 year event. Flooding may occur in the 1 in 100 year event but the exceedance routes and areas which will hold water during this event must be indicated. Given the general flatness of the locality this is an issue which needs some clarification.
- 5.11 There is sufficient space within the site area to provide for attenuation, which will be required due to the underlying clay; however the lack of provision of the ground investigation, the occurrence of shallow ground water, the questions which arise as to the details of the receiving watercourse and the concern with the sizing of the storage features collectively mean that it is difficult to assess whether sufficient consideration has been given to appropriate surface water management. As this is a full planning application it is recommended that this information is provided and further clarification is sought before determination.

Kent County Council Archaeology

- 5.12 No objection subject to a planning condition attached to any approval securing 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.*

Kent County Council Local Highway Authority

- 5.13 No objection subject to conditions obligations and informatives in relation to:
- Visibility splays of 120 metres by 120 metres by 2.4 metres with no obstructions over 0.6 metres above carriageway level within the splays, prior to use of the site commencing.
  - In the interests of highway safety and prior to first occupation implement a 40mph speed limit along Shenley Road from the A274 crossroad for a distance of at least 600 metres (TRO procedure typically takes 6 months).
  - Construction management plan to include construction vehicle loading or unloading and turning facilities; parking facilities for site personnel and visitors; measures to prevent the discharge of surface water onto the highway; wheel washing facilities;
  - Provision and permanent retention of the vehicle parking spaces and/or garages;
  - Provision and permanent retention of vehicle loading/unloading and turning facilities;
  - An informative providing advice on separate highways approvals and highway land.

Natural England

- 5.14 Natural England has assessed this application using the Impact Risk Zones data (IRZs) and is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which River Beult SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in

determining this application. For other matters the council is directed to the standing advice.

Environment Agency

- 5.15 This planning application falls outside our remit as a statutory planning consultee and we do not wish to be consulted on it.

Maidstone Borough Council Housing Services

- 5.16 The application is for a total of 13 dwellings but is not providing any affordable housing. Having read the submitted documents, there appears to be no mention of any affordable housing provision.
- 5.17 Regardless of whether the adopted affordable housing policy is used (15+ units or 0.5 hectares) or the emerging affordable housing policy (11+ units) the proposed development should be subject to providing 40% affordable housing as the area of the site being developed is 1.87 hectares.
- 5.18 A scheme of 13 units would therefore provide 5 affordable housing units. It is acknowledged that the proposed development is for 4 and 5 bedroom houses. As the size of the units and the proposed development may potentially not be suitable for on-site affordable housing, in accordance with policy, an off site provision should be sought in the following order of preference: 1) An identified off site scheme; 2) The purchase of dwellings off site; or 3) A financial contribution towards off site affordable housing.

NHS (West Kent Clinical Commissioning Group)

- 5.19 No objection subject to a planning obligation of a financial contribution of £19,512 to mitigate the additional pressure on local services.

Scotia Gas Networks

- 5.20 No objection. The applicant is advised to contact Scotia Gas Networks before carrying out any works in the vicinity of the Scotia Gas Network. No mechanical excavations should take place within 0.5 metres of a low/medium system and 3 metres of an intermediate system. Safe digging practices in accordance with HSE publication HSG47 'Avoiding danger from underground services' must be used to verify and establish the actual position of pipes and services before mechanical plant is used. It is the developers responsibility to ensure that plant location information is provided to all persons (whether direct labour or sub-contractors) working for the developer on or near gas apparatus. Information included on this plan should not be referred to beyond a period of 28 days from the date of issue.

Southern Water

- 5.21 No objection subject to planning conditions and informatives attached to any planning approval requiring details of a sustainable urban drainage system to be submitted (including long term management), and for the applicant to contact Southern Water to discuss the location of new trees and soakaways and protection of existing infrastructure.

UK Power networks

- 5.22 No objection

**6.0 BACKGROUND PAPERS AND PLANS**

- 6.01 The development proposals are shown on the following drawings:  
1001 – SK201 (plot 4);  
1001 – SK202 (plot 8);

1001 – SK203 (plot 10);  
 1001 – SK204 (plots 5 and 14);  
 1001 – SK205 (plots 1 and 11);  
 1001 – SK206 (plot 3);  
 1001 – SK207 (plot 13);  
 1001 – SK209 (plot 6);  
 1001 – SK210 (detached garages to plots 4 and 6);  
 1001 – SK211 (plot 2);  
 1001 – SK209 (plot 12);  
 1001 – SK213 (plot 7);  
 1001 – EX01 (Site location plan);  
 1001 – PL101 (Site plan);  
 1001 – PL103 (Indicative site section/elevations);  
 1001 – PL104 (Materials plan);  
 1001 – PL105 (Refuse collection plan);  
 1001 – PL106 (Storey height plan);  
 1001 – PL107 (Street hierarchy plan);  
 1001 – PL108 (Site plan – sheet 1);  
 1001 – PL109 (Site plan – sheet 2);  
 1001 – PL115 (Street elevations);  
 4501-104 (Landscape plan);  
 4501-105 (Tree works and protection);  
 4501-107 (Surface materials and fencing plan);  
 4501-202 (Planting plan);  
 4501-205 (Planting schedule);  
 4501-500 (Surface details – part 1);  
 4501-501 (Surface details – part 2);  
 4501-503 (Fence details);

- 6.02 The application is supported by a Design and Access Statement; Materials Plan; Energy Statement; Affordable Housing Statement, Affordable Housing Viability Appraisal; Ecological Assessment, Biodiversity and Enhancement Measures; 10 Year Landscape Management Plan; Affordable Housing Statement; Arboricultural Report; Ecological Assessment; Energy Statement; Planting and Materials Palette; Soft Landscape Specification; Transport Statement; Refuse Collection Plan and Planning Statement.

## **7.0 APPRAISAL**

- 7.1 The main planning considerations include assessing the loss of the existing land (greenfield and brownfield), the need for the proposed new housing, whether the site is in a sustainable location; the design and appearance of the proposed buildings; the potential impact on the amenities of neighbouring occupiers including loss of daylight, sunlight, outlook and privacy, assessing the standard of the proposed residential accommodation (including in relation to noise and ground contamination), flooding and drainage, assessing the potential impact of the proposal on the local highway network and on potential impact on archaeology and ecology.

- 7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the development plan unless other material considerations indicate otherwise.

### **The Development Plan**

- 7.3 In this case the development plan comprises the adopted Maidstone Borough Wide Local Plan 2000. Local Plan policies ENV28 and ENV34 are the starting point for consideration of the current proposal.



- 7.4 Policy ENV28 relates to development within the open countryside stating that *“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:*
- *that which is reasonably necessary for the purposes of agriculture and forestry; or*
  - *the winning of minerals; or*
  - *open air recreation and ancillary buildings providing operational uses only; or*
  - *the provision of public or institutional uses for which a rural location is justified; or such other exceptions as indicated by policies elsewhere in this plan”*
- 7.5 The current proposal has been assessed against the exceptions listed in policy ENV28 and none were found present. It is for these reasons that the development is considered contrary to policy ENV28 of the adopted Local Plan. Policy ENV34 is considered later in this report.
- 7.6 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and after acknowledging the departure from the plan it needs to be considered whether material considerations are present that suggest that such a departure would be justified.
- 7.7 The key material planning consideration outside the development plan is national planning policy set out in the National Planning Policy Framework 2012. Other material considerations include the policies within the emerging local plan (submission draft 2016) and the planning history for this site.

#### **National Planning Policy Framework**

- 7.8 The National Planning Policy Framework (NPPF) at paragraph 47 states that councils should: *“identify and update annually a supply of specific deliverable sites sufficient to provide 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”*.
- 7.9 The council has undertaken a Strategic Housing Market Assessment (SHMA) which was commissioned jointly with its housing market area partners: 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 Maidstone Borough Local Plan (2011 to 2031).
- 7.10 The SHMA has been the subject of a number of iterations following the publication of updated population projections by the Office for National Statistics and household projections by the Department for Communities and Local Government. At the meeting of the Strategic Planning, Sustainability and Transport Committee on 9 June 2015, Councillors agreed an objectively assessed housing need figure of 18,560 dwellings for the period 2011 to 2031. This figure was adopted as the Local Plan housing target by council when it met on the 25 January 2016.
- 7.11 The Maidstone Borough Local Plan was submitted to the Secretary of State for examination on 20 May 2016, and the Plan allocates housing sites considered to be in the most appropriate locations for the borough to meet its objectively assessed needs. The Housing Topic Paper, which was submitted with the Local Plan,

demonstrates that the council has a five-year supply of deliverable housing sites in accordance with paragraph 47 of the NPPF. The independent examination into the Local Plan commenced on 4 October 2016, and the closing session for the hearings was held on 24 January 2017. The examination itself will close following further public consultation on modifications to the Local Plan and receipt of the Inspector's final report. Adoption of the Plan is expected in summer 2017.

- 7.12 Housing land supply monitoring is undertaken at a base date of 1 April each year. The council's five-year supply position includes dwellings completed since 1 April 2011, extant planning permissions, Local Plan allocations, and a windfall allowance from small sites (1-4 units). The methodology used is Planning Policy Guidance - compliant in that the past under-supply of dwellings against objectively assessed housing need is delivered in future years; it applies a discount rate for the non-implementation of extant sites; and a 5% buffer is applied. The position is set out in full in the Housing Topic Paper, which demonstrates the council has 5.12 years' worth of deliverable housing sites at 1 April 2016 against its objectively assessed need of 18,560 dwellings for the Plan period.
- 7.13 The Inspector issued a report on his 'Interim Findings from the Examination of the Maidstone Borough Local Plan' on 22 December 2016 (examination document reference ED110). In addition to confirming that it is reasonable to apply a 5% buffer to the borough's five-year housing land supply in accordance with paragraph 47 of the NPPF, the Inspector is recommending two key changes to the council's housing land supply position.
- 7.14 First, the Inspector did not consider that the 5% market signals uplift set out in the SHMA would have the desired effect of boosting housing supply, nor that it was justified, particularly given the overall increase in past building rates that is expected as a result of the Local Plan allocations. Consequently, the borough's objectively assessed housing need is proposed to be reduced by 900 units to 17,660 dwellings for the period 2011 to 2031.
- 7.15 Second, the Inspector recommends the use of a 'Maidstone hybrid' method for the calculation of the borough's five-year housing land supply, which would deliver past under-supply over the next 10 years (as opposed to the next 5 years as set out in the Housing Topic Paper). This would result in a smoother and more realistic rate of delivery of dwellings over the Local Plan period.
- 7.16 The Inspector's interim report proposes additional modifications relating to the deletion or amendment of allocated sites, or to the phasing of allocated sites and broad locations. The report does not identify a need for further housing site allocations. In advance of public consultation on the formal modifications to the Local Plan, the interim findings have been applied to the borough's 20-year and five-year housing land supply tables which were set out in the Housing Topic Paper.
- 7.17 The updated tables (examination document reference ED116) reveal a strengthened five-year supply position as at 1 April 2016, from 5.12 years to 6.11 years. The figures are not definitive because of the need for consultation on modifications in respect of the reduced housing need and proposed amendments to specific allocated sites, but they reaffirm a robust five-year housing land supply position and justify the assumptions being made. A full five-year housing land supply update will be undertaken through the annual housing information audit to produce the 1 April 2017 position.

- 7.18 Paragraph 49 of the NPPF is clear that relevant policies for the supply of housing “*should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*”. With the above evidence demonstrating a five year supply of deliverable housing sites in the borough when assessed against paragraph 49 of the NPPF housing supply policies including ENV28 and ENV34 are considered up to date and can be given full weight in decision making.
- 7.19 The NPPF at paragraph 12 confirms that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Paragraph 14 states that where a development plan is absent, silent, or relevant policies are out of date, planning permission should be granted for development unless the “...adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted”.
- 7.20 In addition to policy ENV28, this report will consider whether the proposed development is in accordance with other policies in the development plan and whether there are other material considerations present that need to be considered in accordance with paragraph 12 of the NPPF. Whilst it is considered that the development plan is not absent, silent or out of date for completeness the paragraph 14 test will also be considered and whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

#### **Suitability of land for residential development**

- 7.21 The application site consists of a mix of greenfield and brownfield land, with the brownfield part of the site previously occupied by Headcorn Hall. The greenfield part of the current application site was granted planning permission in 1984 for a 40 person nursing home (82/0904). The applicant has stated that this planning permission that included the retention of the residential care home within Headcorn Hall is extant.
- 7.22 Policy DM 4 of the emerging plan considers the development of brownfield land. The policy as set out in the proposed main modifications (changed to DM5) removes the requirement for brownfield land to be in “...close proximity to Maidstone urban area, a rural service centre or larger village”. The policy requires the redevelopment of brownfield land to result in significant environmental improvement, and if reasonably achieved for sites to be reasonably accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.
- 7.23 The supporting text to the policy DM4 states that when considering proposals for residential development on brownfield sites in rural area the key considerations will include: the level of harm to the character and appearance of an area; the impact of proposals on the landscape and environment; any positive impacts on residential amenity; what traffic the present or past use has generated; the number of car movements that would be generated by the new use and if there are no more sustainable alternatives.
- 7.24 The National Planning Policy Framework (NPPF) at paragraph 112 states that where it has been demonstrated that the significant development of agricultural land is necessary, “...local planning authorities ‘should seek to use’ areas of poorer quality land in preference to that of a higher quality”.

- 7.25 The Agricultural Land Classification puts land in one of the five grades (grade 1, 2, 3a, 3b or 4). The NPPF defines the best and most versatile agricultural land as land classified in grades 1, 2 and 3a. The framework expresses a preference for development to be directed to land outside of these classification grades (towards grades 3b, 4 and 5). The application site is part greenfield, part brownfield with the greenfield part of the site within grade 3b. In this context and the social benefits from the provision of 14 new houses the loss of the existing agricultural land is considered acceptable.
- 7.26 The application site is in the proximity of the Headcorn settlement boundary. Headcorn as a rural service centre is second in the sustainable settlement hierarchy as set out in the emerging plan. A reasonable bus service links the application site to facilities available in Headcorn including the railway station.
- 7.27 Whilst the proposal involves new development in the countryside, the proposed house design is sensitive to the character and appearance of an area. The proposal also involves new planting in Shenley Road that will reduce the visual impact of the development. The proposals involve the relocation of the site access currently next to Hall Lodge and Hall Lodge Cottage in Biddenden Road to Shenley Road. This will have a positive impact on residential amenity for the occupiers of these dwellings that have commented on the current application. In relation to traffic movements, the council have previously resolved to approve similar proposals on this site on two separate occasions with earlier permission given for a 40 person care home.

**Design, layout, appearance and density**

- 7.28 Policy DM 1 of the emerging plan states that proposals which would create high quality design will be permitted. Proposals should respond positively to, and where possible enhance the character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation, and site coverage - incorporating a high quality modern design approach.
- 7.29 The application site is located in open countryside, with the general character of the area made up of open fields with sporadic residential development and roads lined with trees and shrubbery. The previous building on the site Headcorn Hall was a two/three-storey building with steep pitched roofs incorporating various extensions and a one/two-storey outbuilding. The building had 15 bedrooms, a lounge, and dining and kitchen facilities on ground and first floors, with staff rooms on the second floor. The building set in substantial grounds, including two access drives and a parking area for 8 cars.
- 7.30 The proposed dwellings are 1 storey 1.5 storey or 2 storeys in height, with proposed roof ridge heights of between 8.3 metres and 8.6 metres. The roof ridge heights are generally lower than those that were previously approved by committee as part of earlier decisions with ridge heights of 8.9 to 9.4 metres approved under MC/12/1554.
- 7.31 The buildings are designed in a traditional architectural style to reflect the character of the local area, including facing brickwork, areas of render and tile hanging to the upper storeys. Brickwork feature banding string courses and plinths also provide interest to the main building elevations.
- 7.32 Policy DM 12 of the emerging plan advises that all new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area. With the proposed development providing 14 residential dwellings the residential density would be 7.3 dwellings per hectare. Policy DM12 recommends a density of 30 dwellings per hectare on sites within or adjacent

to the rural service centres. Whilst below this density figure, the proposed density is considered acceptable in this location that is 0.7 miles outside the Headcorn rural service centre boundary with the proposal maintaining the distinctive open character of the area.

- 7.33 In conclusion the scale, height, materials, detailing, mass, bulk, articulation, and site coverage is considered acceptable with the proposals responding positively to the character of the area. With regard to the existing local character and the location the density of the proposal is considered acceptable.

#### **Visual impact**

- 7.34 Paragraph 17 of the NPPF sets out core planning principles, these include the need to: *'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 contribute to conserving and enhancing the natural environment.'* Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 7.35 The NPPF at paragraph 113 makes a distinction between the hierarchy of international, national and locally designated sites stating that protection should be commensurate with their status. The NPPF permits the protection of locally valued landscapes through the application of criteria and the local analysis of landscape character and sensitivities.
- 7.36 The application site is not located in an area with nationally designated landscape protection (SSSI, AONB, National Park etc.).The site is however recognised as having local landscape value designated as the Low Weald Special Landscape Area in the adopted Maidstone Borough Wide Local Plan (2000) and as a 'Landscape of Local Value' under the emerging Local Plan (submission version 2016).
- 7.37 Policy ENV34 states that "In the...low wield...special landscape area, as defined on the proposals map, particular attention will be given to the protection and conservation of the scenic quality and distinctive character of the area and priority will be given to the landscape over other planning considerations". Emerging policy SP17 (as amended by the main modifications) states that "The distinctive landscape character of the Low Weald as defined on the policies map, will be conserved-and enhanced as landscapes of local value".
- 7.38 The current application is supported by a landscape strategy that sets out the following:
- The landscape character is designed around a parkland setting, retaining mature trees and hedgerows within the site (where possible);
  - The frontages of all dwellings are characterised by hedgerow planting timber pale fencing, mown grass and new tree planting;
  - Dwellings are positioned to retain larger trees on the site that are in good condition;
  - Additional tree planting and hedging is provided to the east, south and west of the Site for privacy of future residents, and to also supplement existing and create additional wildlife habitats;
  - Provide appropriate ecological mitigation and the creation of wildlife zones to enhance biodiversity.

- 7.39 The planning committee have considered and resolved to approve planning permission for the demolition of Headcorn Hall and the residential development of the current application site on two separate earlier occasions (April 2011 and December 2012). It appears that the earlier proposals were not brought forward due to viability issues. The current proposal also involves the residential development of the site with the relocation of the access from Biddenden Road to Shenley Road but with 4 additional units and no affordable housing.
- 7.40 The current proposal involves the removal of Headcorn Hall (removed under separate approval during the course of the current application). With this building falling into disrepair the demolition of the building is considered to represent an improvement to the area. It is accepted that the proposal also involves the development of greenfield land, however with the closure of the existing access and separation distance the new houses are unlikely to be visible from Biddenden Road. The closure of this access would also improve the amenity for the occupiers of Hall Cottage and Hall Lodge Cottage in terms of the noise and activity.
- 7.41 The new access to the site will be from Shenley Road After remedial tree works the current proposal includes new planting along Shenley Road. Whilst the proposal will result in the loss of the existing greenfield land, the new planting proposed along Shenley Road represents an environmental improvement to the area. The submitted proposal also includes the introduction of an ecology buffer area between the new houses and Hall Lodge and Hall Lodge Cottage.
- 7.42 In conclusion whilst the proposal does include the development of both greenfield and brownfield land it is considered that the development is acceptable in relation to visual harm. The proposal will bring the land back into beneficial use with a history of residential use on the brownfield land and earlier approvals for similar residential development to that now proposed and a 40 person care home on the greenfield land. It is considered that the visual impact from the development will be minimised by new planting that will provide some screening from Shenley Road.

**Impact of the proposed building on the amenities of neighbouring occupiers**

- 7.43 Policy DM1 advises that development should respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not result in excessive noise, activity or vehicular movements, overlooking or visual intrusion. The policy states that built form should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties. The core principles set out in the NPPF (paragraph 17) state that planning should *'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'*
- 7.44 The nearest residential property to the application site is Hall Lodge and Hall Lodge Cottage. Hall Lodge and Hall Lodge Cottage separate the western boundary of the application site from Biddenden Road, with the existing site access located to the north of this property. With separation distances of 25 metres and oblique angles between the closest proposed property and the rear elevation of Hall Lodge and Hall Lodge Cottage the proposed development is acceptable in relation to outlook, sunlight, daylight and privacy. With the site separated by land on the corner of Shenley Road and Biddenden Road any impact on the Shenley Mobile Home Park would be negligible.
- 7.45 Whilst the density of development on the site will be increased it is not considered that the noise and general activity generated by the proposed 14 houses would harm residential amenity. It is also noted that the proposal involves the relocation of the

site access away from the nearest residential property Hall Place removing disturbance from vehicle movements.

- 7.46 In summary it is considered that the proposed development will respect the amenities of occupiers of existing neighbouring buildings. The development will not result in excessive activity or vehicular movements, overlooking or visual intrusion, and will not result in an unacceptable loss of privacy or light enjoyed by current occupiers of nearby buildings and land.

**Standard of new accommodation**

- 7.47 The scale, design and internal layout of the proposed development are acceptable with the development providing dwellings in sizable plots with large gardens. The proposed plans demonstrate that the site can adequately accommodate the housing numbers proposed and that they will be of an acceptable standard including in terms of sunlight, daylight, outlook, outdoor space and privacy.
- 7.48 Paragraph 123 of the NPPF sets out *‘Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through conditions; recognise that development will often create some noise...’*
- 7.49 As part of the consultation on the planning application comments have been received from Headcorn Aerodrome with regards to potential noise disturbance to future residents. Headcorn Aerodrome is located on the opposite side of Shenley Road with the nearest aerodrome building located 390 metres to the west of the application site boundary. The grassed runway runs west to east from Biddenden Road and parallel to Shenley Road and at the closest point is 120 metres from the application site.
- 7.50 The draft neighbourhood plan states that Headcorn Aerodrome is an important part of the local economy and local tourism both through flying and parachuting activities, as well as the annual Air Show. The draft neighbourhood plan acknowledges that the aerodrome creates local tensions “...with around a third of residents worrying about aircraft noise”. The plan states that on balance, it is considered that the right policy mix is to support the Aerodrome as a tourist attraction allowing the upgrading of facilities to support tourism, providing these will not significantly increase noise levels.
- 7.51 The presence of an existing noise source in relation to the standard of accommodation is a valid planning consideration. In this case, due to the separation distance and the sporadic nature of the noise it is not considered that there are grounds to refuse permission on amenity grounds. Any demolition or construction activities can have an impact on local residents and an informatives are recommended to try and minimise this disturbance.

**Heritage and archaeology**

- 7.52 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that decision makers pay special regard to the desirability of preserving listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest. Such special regard has been paid in the assessment of this planning application.
- 7.53 The National Planning Policy Framework (NPPF) advises that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any

necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. At paragraph 134 the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.54 There are no listed buildings on the application site and it is not considered that the development will impact on the setting of any listed building. The site is not in or close to a conservation area.

7.55 The application site has some archaeological potential associated with possible river terrace gravels and with post medieval activity. According to records, the site lies on River Terrace Gravels which have potential to contain rare and important early prehistoric remains. In addition, early Ordnance Survey maps suggest a post medieval small holding was located just to the east of this application site before the establishment of Headcorn Hall by the late 19th century. In these circumstances and following advice from Kent County Council Archaeology a planning condition is recommended to secure a programme of archaeological work in accordance with a written specification and timetable.

### **Ecology**

7.56 As part of the environmental role to achieving sustainable development the National Planning Policy Framework (NPPF) at paragraph 7 states that the planning system needs to contribute to protecting and enhancing the natural environment and to help improve biodiversity. The National Planning Policy Framework at paragraph 109 states that *'the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.'* NPPF paragraph 118 states that, local planning authorities should aim to conserve and enhance biodiversity when determining planning applications and take opportunities to incorporate biodiversity in and around developments.

7.57 The application site is not covered by any statutory landscape or ecology designation; however the River Beult Site of Special Scientific Interest (SSSI) is located approximately 0.2 miles to the north. In support of the application details of ecological appraisals have been submitted. These appraisals sought to assess the habitat within the site and the surrounding area for the presence or potential presence of protected species. A number of different surveys have also been carried out in the past to support earlier planning applications for this site.

### **Amphibians**

7.58 The appraisals found Great Crested Newts to be present in three offsite ponds with the newts likely to use the grassland and scrub habitats on the application site. It is proposed to use the same approach to mitigation that was accepted as part of earlier applications. The current proposal includes new ponds on the site that will provide suitable habitat for Great Crested Newts and other amphibians.

7.59 The submitted ecological report states that "A European Protected Species Mitigation Licence was granted by Natural England in February 2016 (Licence Ref No: 2015-12658-EPS-MIT) and great crested newt trapping took place on site between March and May 2016. The trapping found only 8 females, 2 males and 1 juvenile great crested newt during 40 trapping sessions (as per licence requirements). The animals were relocated to a receptor site at Watersfield, Bletchenden Road, Headcorn, Kent,



TN27 9JB - TQ 8422 4262, 235m, which is to the south west of the development site”.

#### Bats

- 7.60 A survey did not find any roosting bats and there is a low potential for them to be present. The submitted ecological report recommends precautionary measures such as using a safe working methodology to tree felling. A number of ponds are proposed and a natural habitat buffer zone to the western boundary. It is recommended that this area is designed to include plant species which are beneficial to foraging bats.
- 7.61 Lighting can be detrimental to roosting, foraging and commuting bats and it is recommended that any lighting is designed to minimise impact on the hedgerows, ponds and buffer zones. It is recommended that the Bat Conservation Trust's *Bats and Lighting in the UK* guidance is adhered to in the lighting design.

#### Reptiles

- 7.62 A low population of grass snakes and good populations of slow worms and common lizards were recorded on site. A translocation exercise is required in order to move these reptiles from the site to a suitable receptor site prior to any development works commencing. A trapping exercise has already been carried out as part of this exercise

#### Breeding Birds

- 7.63 Birds were recorded within the site boundary and it is likely that birds will nest within the hedgerow. All nesting birds and their young are protected under the Wildlife and Countryside Act 1981 as such any works to the hedgerow must be carried out, outside the breeding bird season (March to August inclusive). If that is not possible an ecologist must examine the site prior to works starting and if any breeding birds are recorded all works must cease in that area until all the young have fledged.
- 7.64 To compensate for the temporary loss of nesting habitat whilst the trees that are due to be planted are growing the applicant's ecological report recommends provision of 12 ready-made bird boxes (3 sparrow terrace timber boxes and 9 mix of open-fronted and hole-nesting boxes and constructed from woodcrete) on retained trees and new houses/garages. As a barn owl is known to intermittently roost on the site the report recommends that a permanent alternative is provided with a Barn Owl roosting/nesting box installed on a suitable tree.

#### Badgers, Dormice and Hedgehogs

- 7.65 The survey work did not find any evidence of badgers, or dormice on the application site and the ecological report considers that the site is unlikely to support badgers and dormice. It is considered that the site has moderate potential to support hedgehogs and this should be factor in the design of boundary treatments. Planning conditions are recommended to secure these measures.

#### Transport and access.

- 7.66 Paragraph 29 of the National Planning Policy Framework (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.'*
- 7.67 One of the core planning principles set out at paragraph 17 of the NPPF that should underpin decision making is that planning should *"actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus*

*significant development in locations which are, or can be made sustainable". At paragraph 32 the NPPF states that decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure.*

- 7.68 The NPPF establishes that sustainable development should be seen as a golden thread running through both plan-making and decision taking (paragraph 14). The advice states that patterns of growth should be actively to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable (paragraph 17).
- 7.69 The emerging plan sets out that development must be delivered at the most sustainable locations where employment, key services and facilities are available together with a range of transport choices (paragraph 4.11). In terms of guiding this development the plan sets out a sustainable settlement hierarchy with Maidstone urban area at the top, followed by rural service centres and then the larger villages.
- 7.70 Whilst the application site is not located in any of the areas listed in the sustainable settlement hierarchy, the site is located close to (0.7 miles) to the south-east of the Headcorn village boundary. Headcorn as a rural service centre in the emerging plan is second only to the Maidstone Urban Area on the sustainable settlement hierarchy.
- 7.71 The nearest bus stops are within 150 metres of the site at the Biddenden Road and Shenley Road junction. The number 12 bus service from this stop provides regular access to Headcorn Railway Station running between Tenterden and Maidstone Town Centre. In Headcorn bus service 66 provides access to Sutton Valence and Cornwallis Academy and service 24 access to Sandhurst and Maidstone.
- 7.72 NPPF paragraph 32 states that development should only be prevented, or refused on transport grounds where the residual cumulative impacts of development are 'severe'. In support of the submitted application the applicant has submitted a Transport Statement. It is considered that the vehicle movements associated with the current proposal for 14 flats will not have any substantial impact on the local highway network and any impact could not be described as severe.
- 7.73 The council's off street car parking standards are set out in the Kent Design Guide Review: Guidance Note 3 (November 2008) on residential parking. The current site is considered to fall in the 'suburban edge, village, rural' category in these parking standards. In 'suburban edge, village, rural' areas four bedroom houses and larger houses require 2 independently accessible spaces and 0.2 % space for on street visitors parking. The proposed dwellings have two off street car parking spaces and sufficient room within the curtilage for visitors parking. Double garages provide further off street parking with a total of 56 spaces provided if the garages are included and 28 spaces if you do not in accordance with the above advice.
- 7.74 Paragraph 32 of the NPPF states that planning decisions should ensure that there is safe and suitable site access. Policy T1 of the Local Plan states that all new development will require safe and secure access. The proposal includes the relocation of the existing vehicular access from Biddenden Road to Shenley Road. The applicant has conducted a speed survey and after considering the results, KCC Highways require visibility splays of 120 metres by 120 metres by 2.4 metres with no obstructions over 0.6metres above carriageway level within the splays. KCC highways have also stated that a new 40 mph speed limit is required along Shenley Road and a condition is recommended to achieve this. With these measures in place it is considered that safe access can be provided onto Shenley Road.

- 7.75 The proposed servicing arrangements for the development including the size and location of the refuse storage area are considered acceptable. The refuse storage and collection arrangements have been considered by the local highways authority and no objection has been raised.
- 7.76 With the nature of this location the applicant is advised to give careful thought to construction phase arrangements including vehicle unloading/loading, measures to prevent surface water discharge, operative parking and wheel washing. A planning condition is recommended requesting the submission and approval of these details prior to work commencing.

#### **Flooding and drainage**

- 7.77 A small area in the southern part of the site is identified as land that is at risk from flooding (zones 2 and 3). The Site is not located within a conservation area, or area designated for its biodiversity value.
- 7.78 A small section of the site is within an area at risk from flooding (flood zones 2 and 3). In the event that planning permission is approved planning conditions would be recommended to seek further details of a sustainable urban drainage system and its future management.
- 7.79 The Environment Agency and Southern Water have all been consulted on the current planning application. These consultees have confirmed that they have no objection to the development subject to conditions attached to any approval of permission. It is considered subject to the use of necessary conditions that the proposed development is acceptable in relation to flooding and drainage issues.
- 7.80 Informatives are recommended highlighting the requirement for a formal application to connect to the public sewerage system; and that detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system. The applicant is advised to contact Southern Water to discuss the location of new trees and soakaways and the protection of existing infrastructure.

#### **Environmental Impact Assessment**

- 7.81 With the proposed development including less than 150 houses and the overall area of the development less than 5 hectares, the proposed development falls outside the scope of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015 as an urban development project.

#### **Planning obligations and the Community Infrastructure Levy Regulations**

- 7.82 Policy ID1 of the emerging Local Plan relates to infrastructure delivery. In the event of competing demands for developer contributions towards infrastructure the council's hierarchy of prioritisation set out in policy ID1 is: affordable housing, transport, open space, public realm, health, education, social services, utilities, libraries and emergency services.
- 7.83 Policy CF1 of the adopted 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.'*

7.84 The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests for development contributions of various kinds must comply with three specific legal tests: The requests must be 1. Necessary, 2. Related to the development, and 3. Reasonably related in scale and kind.

7.85 In addition, since 6 April 2015, section 123 of the CIL Regulations places a restriction on the number of different obligations (calculated back to April 2010) that relate to the funding or provision of an infrastructure project or type of infrastructure, ("the pooling restriction"). As such, the scope of contributions that can be requested in respect of new development is restricted. Affordable housing is excluded from this restriction.

#### Affordable housing and development viability

7.86 The National Planning Policy Framework (Chapter 6) supports the delivery of a wide choice of high quality homes, this includes at paragraphs 47 and 50 the provision of affordable housing.

7.87 The council's adopted Affordable Housing Development Plan Document (DPD) sets out at policy AH1 the requirement for affordable housing. This requirement relates to housing sites or mixed-use development sites of either 15 units or more, or 0.5 hectare or greater. The current adopted policy is for 40% of the units to be for affordable housing with a 60/40% split between affordable rent / shared ownership tenure. In the context of the current proposal this would equate to 8 affordable units with 5 for affordable rent and 3 for shared ownership.

7.88 Paragraph 2.14 of the DPD sets out that the council is aware that there may be circumstances where 40% affordable housing provision will not be viable. In such cases, the onus will lie with the developer to prove to the Borough council's satisfaction why a site cannot economically sustain the provision of 40% affordable housing'. Policy AH1 states 'The council will seek to negotiate that a minimum of 40% of the total number of dwellings to be provided shall be affordable housing to meet the identified housing need, unless the council is satisfied of the exceptional circumstances that demonstrate that only a lesser proportion can be provided'.

7.89 The current planning application is accompanied by viability report that concludes that the submitted development cannot support any affordable housing provision or other planning obligations whilst remaining financially viable. This viability report has been independently reviewed by a third party on behalf of the council.

7.90 The third party review has agreed with the applicant's assessment and has concluded that it would not be possible for the viable development of the application site whilst providing affordable housing or other planning obligations. In order to allow the site to come forward as part of a financially viable development it is not recommended that any planning obligations or affordable housing are requested.

## **8.0 CONCLUSION**

8.01 The brownfield part of the application site has a long history of residential use and the residential development of this land and adjoining greenfield land has previously been accepted with, and without the retention of Headcorn Hall. Whilst the housing land supply in the borough is currently in excess of five years the need for a five year supply is a rolling requirement. The application site with previous residential uses and the two committee resolutions for similar developments is considered suitable to provide for future need.

- 8.02 Whilst the site is not located within any of the areas listed in the sustainable settlement hierarchy, the site is located a short distance from a rural service centre which is second in this settlement hierarchy.
- 8.03 The design and appearance of the development is in keeping with the character of the surrounding area. The development is acceptable in relation to the impact on local residential amenity including daylight, sunlight, outlook and privacy.
- 8.04 The proposal will provide a good standard of the residential accommodation (including in relation to noise and ground contamination). The proposal is acceptable in relation to flooding and drainage, impact of the proposal on the local highway network and impact on ecology. The proposal will provide benefits in the removal of Headcorn Hall, the relocation of the vehicle access away from adjacent residential dwellings and increased landscaping and ecology area.
- 8.05 With a 5 year housing land supply in place, normal weight can be given to adopted planning policies in accordance with the NPPF. The proposal is in line with adopted policy ENV34 and emerging policies DM1, DM4 and DM12. Whilst the proposal is contrary to policy ENV28 there are material considerations present that justify the recommendation for approval namely the environmental improvements gained by the removal of the derelict building, increased landscaping, improvements to the amenity of adjacent residents and the provision of new housing.
- 8.06 Whilst the development plan is not absent, silent or out of date for completeness the NPPF paragraph 14 test has been considered. If it was found that a five year supply was not in place the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits.

**9.0 RECOMMENDATION: GRANT PLANNING PERMISSION** subject to the following conditions:

**CONDITIONS**

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1001 – SK201 (plot 4); 1001 – SK202 (plot 8); 1001 – SK203 (plot 10); 1001 – SK204 (plots 5 and 14); 1001 – SK205 (plots 1 and 11); 1001 – SK206 (plot 3); 1001 – SK207 (plot 13); 1001 – SK209 (plot 6); 1001 – SK210 (detached garages to plots 4 and 6); 1001 – SK211 (plot 2); 1001 – SK209 (plot 12); 1001 – SK213 (plot 7); 1001 – EX01 (Site location plan); 1001 – PL101 (Site plan); 1001 – PL103 (Indicative site section/elevations); 1001 – PL104 (Materials plan); 1001 – PL105 (Refuse collection plan); 1001 – PL106 (Storey height plan); 1001 – PL107 (Street hierarchy plan); 1001 – PL108B (Site plan – sheet 1); 1001 – PL109A (Site plan – sheet 2); 1001 – PL115 (Street elevations); 4501-104 (Landscape plan); 4501-105 (Tree works and protection); 4501-107 (Surface materials and fencing plan); 4501-202 (Planting plan); 4501-205 (Planting schedule); 4501-500 (Surface details – part 1); 4501-501 (Surface details – part 2); 4501-503 (Fence details); Design and Access Statement; Materials Plan; Energy Statement; Affordable Housing Statement, Affordable Housing Viability Appraisal; Ecological Assessment, Biodiversity and Enhancement Measures; 10 Year Landscape Management Plan; Affordable Housing Statement; Arboricultural Report; Ecological Assessment; Energy Statement; Planting and Materials Palette; Soft Landscape Specification; Transport

Statement; Refuse Collection Plan and Planning Statement. Reason For the avoidance of doubt and in the interests of proper planning.

- (3) Prior to the commencement of development details of the proposed slab levels of the buildings and the existing site levels shall have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels. These details shall include details any proposed re-grading, cross-sections and retaining walls. Reason: In order to secure a satisfactory form of development having regard to the topography of the site. Details are required prior to commencement of development to ensure that no unnecessary altering of levels takes place to accommodate the scheme.
- (4) Prior to the commencement of development the following shall have been submitted to and approved in writing by the Local Planning Authority a) details of archaeological field evaluation works in accordance with a specification and written timetable, b) following from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable. Reason: To ensure that features of archaeological interest are properly examined and recorded. Details are required prior to commencement of development to ensure that works do not damage items of archaeological value that may be present.
- (5) Prior to the commencement of development details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter. Reason: To ensure an energy efficient form of development. Details are required prior to development to ensure the methods are integral to the design and to ensure that all options (including ground source heat pumps) are available.
- (6) Prior to the commencement of development a construction management plan shall be submitted to approved in writing by the Local Planning Authority. The plan shall include a) details of washing facilities to prevent construction vehicles carrying mud on to the public highway, b) details of arrangements for loading/unloading and turning, c) details of parking facilities for site personnel and site visitors d) Measures to minimise the production of dust on the site; e) Measures to minimise the noise (including vibration) generation; f) Measures to manage the production of waste and to maximise the re-use of materials g) Measures to minimise the potential for pollution of groundwater and surface water and prevent surface water discharge on to the public highway; h) The location and design of the site office and storage compounds and i) arrangements for public consultation and liaison during the construction works The approved facilities and arrangements shall be provided prior to construction work commencing and maintained for the duration of the construction works. Reason: To maintain highway safety and to protect the amenities of local residents. Details are required prior to commencement as potential impact will arise from the point of commencement.
- (7) Prior to the commencement of development details of a sustainable surface water drainage scheme shall have been submitted to and approved in writing by the Local Planning Authority. The surface water scheme should be compliant with the Non-Statutory Technical Standards for Sustainable Drainage (March 2015) and shall include measures to prevent discharge of surface water onto the highway. The scheme should specify responsibilities for the implementation of the SUDS scheme; specify a timetable for implementation; provide a management and maintenance plan

for the lifetime of the development; including arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. There shall be no provision for infiltration of surface water into the ground unless it has been demonstrated that there will be no risk to controlled waters. The scheme shall be implemented in accordance with the approved details prior to first occupation of any dwelling and maintained as such thereafter. Reason: To prevent flooding by the ensuring the satisfactory storage and disposal of surface water from the site. Details are required prior to commencement to maximise the options that are available to achieve a sustainable drainage system. Infiltration of surface water into contaminated ground has the potential to impact on surface water quality and pose unacceptable risks to controlled waters.

- (8) Prior to the commencement of development details of the proposed means of surface water disposal shall have been submitted to, and approved in writing by, the Local Planning Authority with the approved measures in place prior to occupation and retained permanently thereafter. Reason: To avoid pollution of the surrounding area. Details are required prior to commencement as groundworks will reduce the options available.
- (9) Prior to the commencement of development a scheme for the enhancement of biodiversity shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include the location and design of swift bricks and bat boxes, tubes or tiles and take account of any protected species that have been identified on the site, shall include the enhancement of biodiversity through integrated methods into the design and appearance of the dwellings and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals prior to first occupation of dwellings and shall be maintained in perpetuity. Reason: To protect and enhance biodiversity. This information is required prior to commencement of development as works have the potential to harm any protected species present.
- (10) Prior to the development reaching damp proof course level, written details and samples of all facing materials and external surfacing materials (including undercroft parking) of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved materials unless otherwise agreed in writing by the Local Planning Authority. Reason: To ensure a satisfactory appearance to the development and a high quality of design.
- (11) Prior to first occupation of any residential unit, and notwithstanding the submitted details, fencing, walling, railings and other boundary treatments (including provision of gaps under boundary fencing to facilitate ecological networks) shall be in place that are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatments shall be maintained as such thereafter. Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers and to facilitate local ecological networks.
- (12) Prior to first occupation of any residential unit, facilities for the storage of domestic refuse shall be in place that are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatments shall be maintained as such thereafter. Reason: To ensure a satisfactory appearance to the development and to safeguard the amenities of future occupiers.

- (13) If during construction/demolition works evidence of potential contamination is encountered, all 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 in accordance with the agreed plan. 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.
- (14) Prior to first occupation of any residential unit, a closure report shall be submitted to and approved in writing by the Local Planning Authority. The closure report shall include a) details of any post remediation sampling and analysis, b) 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. 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. 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 in any phase or sub-phase can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- (15) Prior to first occupation of the relevant residential dwellings electric vehicle “rapid charge” points (of 22kW or faster) and charge points for low-emission plug-in vehicles shall be installed and ready for use in accordance with details that have previously been submitted to and approved by the Local Planning Authority with these facilities retained in accordance with these details thereafter. Reason: In the interests of sustainability, to support reductions in air pollution, to provide for low emission vehicles and to reduce the carbon footprint.
- (16) Prior to first occupation of any residential dwellings hereby approved a detailed Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority with the agreed measures implemented within three months of first occupation and retained. Thereafter. The Travel Plan should include the following: a) objectives and targets, b) Measures to promote and facilitate public transport use, walking and cycling. c) Promotion of practises/facilities that reduce the need for travel. d) Monitoring and review mechanisms. e) Travel Plan co-ordinators and associated support. f) Details of a welcome pack for all new residents including local travel information, g) Marketing. h) Timetable for the implementation of each element. Reason: In order to promote sustainable travel choices and to help reduce air pollution.
- (17) Prior to first occupation of any residential dwellings hereby approved management arrangements for the communal areas of the site and access roads shall be in place that are in accordance with a plan that has previously been submitted to and approved in writing by the Local Planning Authority. With these arrangements retained thereafter. The plan should include a) The areas within the scope of the management plan and the maintenance requirements of these; b) Method and works schedule for maintaining communal areas and estate roads; c) The setting up of an appropriate management body; d) The legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery; and g) Ongoing monitoring of



implementation of the plan. Reason: To protect the amenity of future residents and the character and appearance of the development.

- (18) Prior to first occupation of any residential dwellings hereby approved the cycle parking, car parking and internal access arrangements shown on the approved plans shall be provided, surfaced and drained in accordance with the approved details and shall be retained permanently 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 (or subsequent revision), shall be carried out on the land so shown or in such a position as to preclude vehicular access to parking areas. Reason: Development without provision of adequate access and parking is likely to lead to inconvenience to other road users and be detrimental to amenity.
- (19) Prior to first occupation of any of the residential dwellings visibility splays shall be in place to the new entrance in Shenley Road of 120 metres by 120 metres by 2.4 metres with no obstructions over 0.6 metres above carriageway level within the splays with the splays retained as such thereafter. Reason: In the interests of highway safety.
- (20) Prior to first occupation of the dwellings hereby permitted a 40mph speed limit shall be in place on Shenley Road from the A274 crossroad for a distance of at least 600 metres. Reason: In the interests of highway and pedestrian safety.
- (21) Prior to first occupation of any of the residential dwellings hereby approved landscaping shall be in place that is in accordance with a landscaping scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall include on a plan, full details of the size, species, spacing, quantities and location of proposed plants, together with any hard surfacing, means of enclosure, and indications of all existing trees, hedges and any other features to be retained, and measures for their protection during the course of development. Any part of the approved landscaping scheme that is dead, dying or diseased within 5 years of planting shall be replaced with similar species of a size to be agreed in writing beforehand with the Local Planning Authority. Reason: In the interests of visual amenity. an appropriate standard of accommodation.
- (22) Prior to first occupation of any of the residential dwellings hereby approved details of any external lighting to be placed or erected within the site shall have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of measures to shield and direct light from the light sources so as to prevent light pollution and in order to minimise any impact upon ecology. The development shall be carried out in accordance with the approved details and maintained as such permanently thereafter. Reason: To prevent light pollution in the interests of the character, amenity and biodiversity of the area.

### **INFORMATIVES**

- (1) The applicant is advised that detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.
- (2) The applicant is reminded of the requirement for a formal application to connect to the public sewerage system.
- (3) The applicant is advised to contact Southern Water for further advice including in relation to protecting infrastructure during construction works , Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

- (4) The applicant is advised of their responsibility to ensure, that before the development hereby approved is commenced, that all necessary highway approvals and consents are obtained and that the limits of the highway boundary are clearly established in order to avoid any enforcement action by the Highway Authority.
- (5) The applicant is advised that a formal application to Southern Water is required for connection to the public sewerage system in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water. The applicant is advised that due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. 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. The applicant is advised to discuss the matter further with Southern Water.
- (6) The applicant is advised of the Mid Kent Environmental Code of Development Practice and it is recommended that no demolition/construction activities take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.
- (7) The applicant is advised that any facilities used for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume of the tanks.
- (8) The applicant is advised that any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- (9) The applicant is advised that the lighting scheme provided in accordance with the planning condition should adhere to the following advice from the Bat Conservation Trust and Institution of Lighting Engineers. Bats and Lighting in the UK.
- (10) The applicant is advised to obtain all necessary highway approvals and consents and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>
- (11) The applicant is advised that in relation to the 40mph speed limit required by condition the implementation of the county council's 3rd party Traffic Regulation Order procedure typically takes 6 months to complete.
- (12) The applicant is advised to contact the Police to incorporate secure by design measures into the development. The contact details of the Kent Police CPDAs are; John Grant and Adrian Fromm, Kent Police Headquarters, Sutton Road, Maidstone ME15 9BZ email: [pandcr@kent.pnn.police.uk](mailto:pandcr@kent.pnn.police.uk) Tel No- 01622 653209/3234.

Case Officer: Tony Ryan

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



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## REPORT SUMMARY

<b>REFERENCE NO - 16/505966/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Change of use and conversion of The Railway Tavern to one dwelling; and the erection of a new detached dwelling with parking and landscaping.		
<b>ADDRESS</b> Railway Tavern Station Road Staplehurst TN12 0QH		
<b>RECOMMENDATION</b> Permit		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The public house is not considered to be a valuable local amenity and its loss is not considered significant. The proposed development presents significant benefits in terms of providing a viable use for the listed public house and an improvement to the overall character of the site.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Councillor Brice has requested committee consideration as the issue of the loss of the public house requires committee consideration.		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN</b> Staplehurst <b>COUNCIL</b>	<b>APPLICANT</b> Rectory Lane Limited <b>AGENT</b> Kember Loudon Williams LLP
<b>DECISION DUE DATE</b> 14/09/16	<b>PUBLICITY EXPIRY DATE</b> 03/11/16	<b>OFFICER SITE VISIT DATE</b> 14/10/16 (and previously)
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>
16/505967/LBC	Conversion of The Railway Tavern to a dwelling and associated works.	Undetermined
13/0440	Listed building consent for single storey rear extension and internal alterations to facilitate a change of use of part of building from A4 use (public house) to create separate A5 use (hot food takeaway).	Permitted
13/0437	Single storey rear extension and change of use of part of building from A4 use (public house) to create separate A5 use (hot food takeaway).	Permitted

## MAIN REPORT

### 1.0 BACKGROUND

- 1.01 The consideration of this planning application was withdrawn from the agenda of the committee meeting on the 16 March 2017.
- 1.02 The reason for the withdrawal from the agenda was to allow public consultation to take place on public house viability information that had been submitted by the applicant. This consultation that included neighbours to the application site expired on the 31 March 2017. The following responses were received

## **2.0 LOCAL REPRESENTATIONS**

- 2.1 The consultation responses that were received as a result of the original public consultation are included in the original report that is copied below.
- 2.2 As a result of the additional consultation one further letter has been received restating previously reported comments about the loss of the public house.

## **3.0 CONSULTATION**

- Staplehurst Parish Council
- 3.1 Confirm no change to previous recommendation for refusal. At a time of planned housing growth in the village they felt it was important to have more facilities rather than fewer.
- Southern Water
- 3.2 No further comment
- KCC Highways
- 3.3 No further comment
- Southern Gas Networks
- 3.4 No further comment

## **4.0 FURTHER INFORMATION FROM THE APPLICANT**

- 4.01 Following the officer report to the meeting on the 16 March, the applicant has submitted additional supporting information.
- 4.02 The applicant has stated that the objector who had said that they had been unable to view the site was invited to a viewing of the public house to ascertain whether they had any interest.
- 4.03 The agent's report on the viewing was that the objector concluded that the building was unviable as a public house due to the investment required and the internal layout. The applicant has stated that following the viewing the individual stated that they had no interest in the building. The letter submitted by the applicant is included at the end of this report.

## **5.0 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) The development hereby permitted shall be carried out in accordance with the following approved plans:

site location plan and drawing nos. 3487.01, 03, 04 received 20/7/16; and drawing nos. 3487.14, 15, 16 received 10/10/16.

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

(3) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted 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 a satisfactory appearance to the development.

(4) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) a scheme of hard and soft landscaping, using indigenous species, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management shall be submitted to and approved 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 full details of proposed means of surfacing and boundary treatments;

Reason: No such details have been submitted.

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

Reason: To ensure a satisfactory setting and external appearance to the development.

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

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

(7) No development falling within Schedule 2, Parts 1 and 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) shall take place on the site without the prior written consent of the Local Planning Authority;

Reason: To ensure the character of the site is maintained.

(8) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) full details of the external joinery to be used in the construction of the building(s) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved details;

Reason: To ensure a satisfactory appearance to the development.

(9) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) details of a scheme for the enhancement of biodiversity on the site (including a timetable for implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods by means such as swift bricks, bat tubes, bat boxes, etc. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter;

(10) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification 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. Details are required before development commences given the nature of archaeological remains.

Reason: To enhance the ecology of the site.

Case Officer: Geoff Brown

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



1 April 2017

S Allen Esq.  
The Halfway House  
Horsmonden Road  
Brenchley  
TN12 7AX

Dear Sam

**The Railway Tavern, Staplehurst**

I refer to your viewing and internal inspection of The Railway Tavern with your father at 2:30pm on 21 March 2017 and to our subsequent telephone conversation this morning at 11:46am. I refer also to my lengthy telephone call to your father at 2:50pm on 7 July last year.

This morning you confirmed that you do not wish to take your previous interest any further and that, upon inspection, you were disappointed to find that The Railway is unsuitable as a public house in its current form, in your opinion. You consider that the investment required to render the property viable as a licensed premises outweighs the likely benefit, even were our client to come to a generous accommodation on rent. In particular, you consider that the layout of the building does not lend itself to use as a contemporary licensed trade business.

Your reflections and opinions, as local award winning publicans, are noted.

Should circumstances change, please do not hesitate to contact us.

Yours sincerely,



pp M R Clarke



**REPORT SUMMARY**

<b>REFERENCE NO - 16/505966/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use and conversion of The Railway Tavern to one dwelling; and the erection of a new detached dwelling with parking and landscaping.		
<b>ADDRESS</b> Railway Tavern Station Road Staplehurst TN12 0QH		
<b>RECOMMENDATION</b> Permit		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The public house is not considered to be a valuable local amenity and its loss is not considered significant. The proposed development presents significant benefits in terms of providing a viable use for the listed public house and an improvement to the overall character of the site.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Councillor Brice has requested committee consideration as the issue of the loss of the public house requires committee consideration.		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Rectory Lane Limited <b>AGENT</b> Kember Loudon Williams LLP
<b>DECISION DUE DATE</b> 14/09/16	<b>PUBLICITY EXPIRY DATE</b> 03/11/16	<b>OFFICER SITE VISIT DATE</b> 14/10/16 (and previously)
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>
16/505967/LBC	Conversion of The Railway Tavern to a dwelling and associated works.	Undetermined
13/0440	Listed building consent for single storey rear extension and internal alterations to facilitate a change of use of part of building from A4 use (public house) to create separate A5 use (hot food takeaway).	Permitted
13/0437	Single storey rear extension and change of use of part of building from A4 use (public house) to create separate A5 use (hot food takeaway).	Permitted

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

1.01 The application site is located within the defined village boundary of Staplehurst and at the northern end of the settlement. It is situated off the east side of Station Road (A229) and involves a Grade 2 Listed public house in the southern part with a pub garden behind the building and car park to the north. The public house has been closed for some time and the site fenced off to prevent unauthorised access.

1.02 This is a predominantly residential area with a range of different properties in evidence, mainly of 20th century date, although part of the large industrial estate is located opposite the site off the west side of the main road. To the immediate north of the site is the building and curtilage of the station newsagents; whilst to the rear and south of the site are the rear gardens of houses that front Fishers Road.

1.03 The listed pub has three levels of accommodation although the upper level is essentially in the roofspace. The Railway Tavern consists of a T-shaped building, originally orientated at right angles to the road, which probably dates from the early 17<sup>th</sup> Century. The original building is now almost entirely wrapped by single storey additions of 19<sup>th</sup> and 20<sup>th</sup> Century date. It was probably originally a farmhouse but it was put up for sale in 1842, the year which the railway opened, and was probably converted to a pub soon after to cater for the railway trade (the South Eastern Hotel or Railway Hotel on the corner of Market Street – now converted to flats and known as Dickens Court – opened in 1846 and seems to have been built on the farmhouse's land and may have been a contemporary development to cater for a higher class clientele than the pub).

## 2.0 PROPOSAL

2.01 In summary the application proposes the conversion of the pub building to a single dwelling; and (following amendments) the erection of a new detached dwelling in the open space to the north of that listed building. The access point to the converted pub would be at the southern end of the site (there is a small integral garage currently in that location) leading to a landscaped parking and turning area for cars on the site frontage. The new house would have its own access drive from Station Road leading to a detached single garage off the south east corner of the house, with a small turning area and landscaped area on the site frontage to that new dwelling. New hardstandings would be of a permeable surface. The rear half of the site would be given over to grassed gardens to both properties, with existing trees on the rear boundaries of the site retained.

2.02 The proposed physical changes for conversion are modest, the main elements being the removal of part of a modern and inappropriate flat-roofed extension on the north end of the building; the reinstatement of walls internally which will partially re-create the original floorplan; and minor changes to fenestration. Materials would generally match existing.

2.03 The new build development involves the erection of a two storey, four-bedroomed detached house of a combination of brickwork, horizontal timber boarding and render under a plain tile roof. The dwelling would feature hipped roofs and a prominent front gable feature to the main road.

## 3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

MBWLP 2000 Policies: ENV6, H28, R11

MBLP (Regulation 19) Submission 2016 Policies: SP10, DM1, DM2, DM3, DM4, DM18

The Staplehurst Neighbourhood Plan 2016

## 4.0 LOCAL REPRESENTATIONS

4.01 Staplehurst Parish Council originally stated:

“Councillors wish to see the application REFUSED for the following reasons : whilst the conversion of the Railway Tavern building itself appeared sympathetic (Councillors wished to know the Conservation Officers view), the proposed development of an additional three houses would be over-intensive and unsympathetic to the setting of the Grade II listed

building; there was inadequate parking provision which would cause problems in Station Road and neighbouring streets such as Market Street and Fishers Road where there were already parking restrictions; there were drainage problems in the area relating to a water-course and flooding of the car park, which the application did not recognise; the proximity of the bus stop and parked buses restricted sight-lines, which added to the hazard risk presented by the nearby junctions and fast traffic coming south over the railway bridge. Councillors do not request the application be reported to MBC Planning Committee.”

On the amended plans (reducing the proposed three new-build houses to a single detached house) the Parish Council states:

“Councillors regretted the loss of the useful village pub and maintained their recommendation of REFUSAL due to the risk of surface water flooding, the potential consequences of building over the water course and the withdrawal of access to the neighbouring Station Newsagents property. They indicated that were these issues to be addressed they would be prepared to reconsider their position. They also expressed their support for the comment by Kent Highways about the need for adequate parking provision at the front of the building.” Followed by:

“Councillors AGREED to make the following additional comments to MBC: (i) the proposed change of use was at variance with NPPF paragraph 70 in that it represented an 'unnecessary loss of valued facilities and services'; (ii) the proposed change of use conflicted with emerging Maidstone Borough Local Plan Policy SP10 paragraph 5: 'the loss of local shops, community facilities and green spaces will be resisted'; (iii) the Railway Tavern was immediately adjacent to the station area identified for commercial development and public realm improvement in the Staplehurst Neighbourhood Plan (Policy GW1) and its presence would complement the envisaged measures.”

4.02 A written petition with 60 signatures has been received objecting on the basis that the site floods after heavy or persistent rain. A further written petition with 61 signatures has been received objecting on the basis that the development would deny unrestricted pedestrian and vehicular access to the rear of the property, from Station Road to the gates at the rear of the property. Such access has been available for at least 20 years.

4.03 13 letters of objection have been received from local residents (I have included comments made on the listed building consent application which clearly should relate to the planning application). The summarised grounds of objection are as follows:

a) The loss of the pub should be resisted as it is a valuable local amenity, particularly as the village is experiencing significant growth. The expanded village needs to retain its community facilities. The pub could be a viable business if it was managed properly and the right investment was made. The loss of the pub would represent a loss of employment opportunities.

b) The pub has not been marketed properly. Information provided is misleading and, contrary to statements made in the application, there has been genuine interest from the pub industry in acquiring it as a pub business.

c) Staplehurst does not need this new housing in view of large volume being built elsewhere in the village.

d) The development would deny the rights that have accrued over the years for customers of the newsagents to park on the pub car park. The development would deny access to the newsagent's garage. The proposals should make provision for local residents to park on the redeveloped site.

e) A watercourse runs along the southern boundary of the site. The site floods and this would get worse as a result of the development.

## 5.0 CONSULTATIONS

5.01 KCC Highways and Transportation points out that this is a sustainable location and that the proposed development would be likely to generate less traffic than a functioning pub use. There is generally no objection subject to conditions but comments are made that a proposed small area of hedge planting in front of the pub conversion should be removed to ensure that two spaces can be provided on that frontage.

5.02 Historic England has no comment.

5.03 KCC Archaeology points out the potential importance of this locality in terms of Roman, Medieval and Post-Medieval remains and recommends that either an additional archaeological assessment be carried out pre-determination or, if deemed more appropriate, conditions be attached to secure that further assessment and to secure a programme of building recording.

5.04 The Upper Medway Internal Drainage Board (UMIDB) has no objection.

5.05 UK Power Networks, Scotia Gas Networks and Southern Water have no objection.

5.06 MIDKENT EHSS has no objection subject to conditions on the issues of contamination and internal noise levels.

5.07 The MBC Conservation Officer has no objection: see detailed discussion below.

5.08 The MBC Landscape Officer has no objection.

## 6.0 APPRAISAL

### Principle of Development

6.01 The application site is located in a village location that is clearly well related to basic services and public transport. Looking at Development Plan Policy and Central Government Guidance, sustainable locations such as this one are the preferred choice for new housing.

6.02 The Council is now able to demonstrate a 5 year supply of housing land but opportunities need to be taken to maintain supply, particularly on previously developed land in sustainable urban and village locations. The emerging Local Plan designates Staplehurst as a rural service centre and therefore appropriate for new housing development.

6.03 The Staplehurst Neighbourhood Plan 2016 contains no specific policies relating to the retention, or otherwise, of the pub but Policy GW1 places the pub at the margins of the railway station area identified for redevelopment and public realm improvement.

### The Loss of the Public House

6.04 'Saved' Local Plan Policy R11 states:

*"In considering planning proposals which would involve or require the loss of existing post offices, pharmacies, banks, public houses or class A1 shops selling mainly convenience goods, particularly in villages, consideration will be given to the following:*

- (1) firm evidence that the existing uses are not now viable and are unlikely to become commercially viable; and*
- (2) the impact on the local community and especially on those economically or physically disadvantaged; and*
- (3) the availability of comparable alternative facilities in the village or the local area; and*
- (4) the distance to such facilities and the availability of travel modes other than by private motor vehicle”.*

6.05 Paragraph 70 of the NPPF states that planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

6.06 The application is accompanied by a report on the viability of the premises by a specialist in licensed property at James A Baker Chartered Surveyors. He points out that there are approx. ten other public houses within a three mile radius of the site, including The Kings Head in Staplehurst. The report makes the following points that lead to a conclusion that the future of the site as a public house is not viable:

- a) This has been a 'wet-led' pub business. Such pubs currently face a challenging market leading to closures.
- b) There appears to have been very limited investment up to the point of closure. The premises would require considerable investment to develop a 'food-led' business with potentially limited opportunities to alter the layout given the listed status. Kitchen heights are low and the pub only accommodates 35 dining covers which is low. The size of the upper floors does not offer scope for a guest house/b and b operation. It would not make economic sense to invest in an outlet with such limited trading potential.
- c) The premises faces competition from other pubs in the area, notably The Kings Head within Staplehurst which is a traditional pub, better situated in the village centre, and offering an extensive food menu.

No accounting information is available but profits are estimated to have been low and the report concludes that the pub would not be able to trade at a level which would provide an operator with a reasonable profit and be maintained. In supplementary submissions the surveyor points out that comparison with other individual pubs are not helpful as other premises may be better located and present the opportunity for several income streams like, for example, larger dining areas and letting rooms.

6.07 The application is also accompanied a report by Greensand Asset Management which deals principally with the sale, acquisition and estate management of pubs, hotels and other leisure properties in the south east. They advise that previous owners Enterprise Inns had not succeeded in recruiting a lessee for the property and so Greensand were employed to advise on the disposal of the property. From June 2015 to November 2015 (when the current owners bought it) the property was marketed on a freehold and leasehold basis and again from December 2015 to date. No interest was received in terms of running the pub as a going concern, although other interest was expressed in terms of a convenience store use, a children's nursery use and restaurant use, although interest did not progress to offer stage. The conclusion is reached by Greensand that the pub is not viable given the local competition; poor trading levels; and the general changes in the market.

6.08 The pub has not been the subject of an application to this Council as a Community Asset under Section 88 of the Localism Act.

6.09 I consider there is strong evidence to indicate that the pub is not viable, or potentially viable. On the renovation issue raised in the viability reports, whilst a complete rebuild or wholesale alteration may be acceptable to more modern areas of the pub where change would be less sensitive, there may be significant hurdles in terms of enlarging or altering the bar area (that would presumably form the restaurant space) as this is the historic core area of the building. Similarly there would seem to be little latitude in terms of increasing the upstairs accommodation for guest or b & b accommodation.

6.10 Given this background I do not consider that objection should be raised on the basis of the loss of the pub as a community asset. The point has been made that the village is undergoing significant expansion and that the expanded village will need community facilities. The expansion of the village has been well publicised and I must presume that potential new operators were aware of that in considering purchase or taking on a lease. There is also the issue of there being alternative public house facilities in the local area.

### **Visual Impact and Impact on the Listed Building**

6.11 Another important consideration here is that when considering listed building consent applications or any decision on a planning application for development that affects a listed building or its setting, a Local Planning Authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This obligation is found in The Planning (Listed Buildings and Conservation Areas) Act 1990.

6.12 The introduction of new-build housing on the northern portion of the site presents challenges in terms of achieving a design that safeguards the setting of the listed building and the character of the area generally. These issues have been the subject of pre-application advice and discussion during the course of the formal application resulting in amended plans reducing the 'intensity' of the scheme. I agree with the Heritage Statement that the land to the north proposed for development, which currently largely forms the car park, does not make a positive contribution to the setting of the listed building in its current state. This includes the wide access point to the road and the extent of tarmac surfacing that essentially covers the whole gap between the pub and the neighbouring shop. In addition to that, from a historical perspective, there were previously buildings on this part of the site, albeit probably outbuildings to the pub. Given this background, I consider that an infill development between the converted pub and the newsagents is acceptable, particularly given the opportunity to significantly improve the setting of the pub building and the general character of the area.

6.13 The change from the previously proposed terrace of three houses to a single dwelling has been the subject of negotiation and I consider the scale and design detail of the 'new-build' to be appropriate. I do not consider the proposals would have any negative impact on the character of the area which is an area of mixed character, predominantly residential, with a range of different properties in evidence, mainly of 20th century date, and some industrial structures.

6.14 Turning to the impact on the building, I consider that the removal of unsympathetic elements, the various proposed alterations and the introduction of a new viable use for the building would improve its condition and character. I agree with the Conservation Officer who states:

"The proposals for conversion are largely sympathetic and would in many ways be beneficial to the listed building by the removal of at least part of a modern and inappropriate flat-roofed extension and the reinstatement of walls internally which will partially re-create the original

floorplan.” (His concerns over the previously proposed removal of a chimneybreast and chimney in the 19<sup>th</sup> Century northern addition have now been rectified.)

6.15 These environmental improvements would seem to be in accord with the Neighbourhood Plan’s aim to improve the general area around the station and the northern approaches to the village, much of which is dominated by railway/highways infrastructure and extensive areas of vehicle parking space. I consider the proposals represent significant benefits in terms of providing a new use for the listed building; preserving and enhancing its fabric and character; and improving its setting, not least through the removal of extensive areas of hardstanding around the building.

### **Residential Amenity**

6.16 The conversion of the pub and the new-build dwelling are positioned and designed so that there would be no significant loss of outlook, light or privacy to any neighbouring property.

6.17 The pub has the potential to generate a significant level of noise and disturbance to local residents, often at unsociable times of the day. In that respect, residential amenity is likely to improve as a result of the scheme as the dwellings are unlikely to generate the same ‘comings and goings’ from vehicles and pedestrians, noise from amplified music, etc. as the pub.

6.18 The prospective occupiers of the new dwellings would be likely to enjoy at least a reasonable standard of living with each being provided with sizeable private garden areas behind their main frontages. Looking at the comments of the Environmental Health Officer I am satisfied that road noise here is not sufficiently problematical to warrant a condition requiring noise insulation; nor am I convinced that there is a significant likelihood of ground contamination so as to warrant a condition on that issue.

### **Highways**

6.19 There is no substantive objection here from KCC Highways and Transportation. I consider that the revised access arrangements would provide for a safe access to the public highway. There would be on-site parking and turning for 2 cars for each dwelling which I consider adequate for two large dwellings in a sustainable location. I consider the parking and turning arrangements acceptable as shown for the converted pub and I do not consider the loss of the proposed hedging (as suggested by the Highways Officer) to be necessary, particularly given the advantages of properly landscaping this site.

6.20 The pub, if open, could potentially generate a significant volume of traffic and, in my view, the dwellings proposed here would be likely to generate significantly less car traffic than that; and certainly less commercial vehicle visits. Consequently the scheme would not have any negative impact on the safe and free flow of traffic on the public highway or cause congestion on the local highway network.

6.21 The newsagents and others making representations claim the right to park on the premises and that would clearly be denied by the development proposed. The lawful use of that land is as a pub carpark, not a public carpark for those using the shop and local facilities. As I have advised the newsagents, if some form of user-rights have accrued then that is a private legal matter that should be addressed through private legal action not through the planning system. I understand that a temporary agreement was previously in place to allow such parking but that has been terminated. The developers deny such rights now exist and will not make provision in their scheme for any element of shop-related or

public parking space. The benefits of reuse of the listed building and new residential units are considered to outweigh the loss of any informal parking.

### **Landscaping and Ecology**

6.22 No trees on this site are TPO protected. There are small trees/hedging around the margins of parts of the rear of the site which are to be retained. The whole site would be the subject of a detailed landscaping scheme, the indication being that boundary vegetation would be retained and the frontages of the houses would be landscaped as a replacement for the extensive tarmac that impacts on the setting of the building. I consider this acceptable and there are significant landscape benefits in terms of the replacement of the extensive hardstanding areas on this site with soft landscaping.

6.23 As may be expected given the condition of the site, the preliminary ecological appraisal found the site to be of low value. A follow-up bat emergence survey found it unlikely that the buildings support a bat roost but that foraging occurs in the garden. No further survey work is deemed necessary but the use of indigenous species landscaping is encouraged. I consider that further ecological enhancements can be secured by a suitably worded condition.

### **Other Matters**

6.24 Representations raise the issue of localised flooding. The site is not within an identified flood zone, nor have any objections been received from Southern Water or the UMIDB. It seems to me that the removal of hardstandings and replacement with soft landscaping/permeable surfacing would be likely to ease any surface water flooding and I see that the developers have offered to clear out the ditch at the southern edge of the site, despite it being beyond their land ownership. There are no justifiable grounds to object here on flooding grounds.

6.25 Looking at the views of the County Archaeologist, I am satisfied that the required evaluation can be dealt with by condition. The developers have already provided some information on this and I am in consultation with the archaeologist as to its adequacy and the wording of any condition(s).

## **7.0 CONCLUSION**

7.01 Whilst the loss of public houses to the community is generally regrettable, the economic reality is that many are closing, particularly where such pubs are heavily reliant on the sale of liquor products and have limited potential to develop the food side of the business. That is the case here and there is an alternative public house within the village. The scheme is well designed and presents advantages to the listed building and its setting. I therefore recommend approval of the application.

7.02 The related listed building consent application ref. 16/505967/LBC can only be concerned with physical changes to the listed building. Those issues are not the subject of the call to committee nor has any party made objection on those grounds. I therefore intend to determine that listed building consent application under delegated powers.

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

site location plan and drawing nos. 3487.01, 03, 04 received 20/7/16; and drawing nos. 3487.14, 15, 16 received 10/10/16.

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

(3) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted 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 a satisfactory appearance to the development.

(4) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) a scheme of hard and soft landscaping, using indigenous species, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management shall be submitted to and approved 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 full details of proposed means of surfacing and boundary treatments;

Reason: No such details have been submitted.

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

Reason: To ensure a satisfactory setting and external appearance to the development.

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

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

(7) No development falling within Schedule 2, Parts 1 and 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) shall take place on the site without the prior written consent of the Local Planning Authority;

Reason: To ensure the character of the site is maintained.

(8) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) full details of the external joinery to be used in the construction of the building(s) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved details;

Reason: To ensure a satisfactory appearance to the development.

(9) Before development commences on the listed building or before works on the new-build house reach damp proof course level (whichever is the sooner) details of a scheme for the enhancement of biodiversity on the site (including a timetable for implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods by means such as swift bricks, bat tubes, bat boxes, etc. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter;

Reason: To enhance the ecology of the site.

Case Officer: Geoff Brown

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

**Item 15, Page 42****Railway Tavern, Staplehurst****Reference number: 16/505966/FULL**

With regard to para. 6.25 of the report, THE COUNTY ARCHAEOLOGY has now examined the submitted archaeological evaluation report which concludes that there are no indications of any archaeology surviving on the site. The archaeologist accepts the report but recommends that a 'watching brief' be maintained during redevelopment. OFFICER COMMENT: this can be secured by a suitably worded condition.

COUNCILLOR HARWOOD comments that there is no recommended condition addressing renewable energy and that this should be added with regard to the new-build house. OFFICER COMMENT: With the cancellation of the Code for Sustainable Homes and the transfer of requirements to the Building Regulations, it is the Council's practice not to impose such a condition on a new single dwelling.

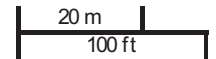
ONE LOCAL RESIDENT writes again to underline his objection to the loss of the pub as a community asset and an employment generator. He has carried out his own viability test based on CAMRA advice and concludes that the pub is still potentially viable. OFFICER COMMENT: Whilst the opinions of the local resident are welcomed, in support of the application officers have considered information submitted by a specialist in licenced property. My conclusions on viability are set out in the report. In terms of employment generation, obviously a functioning public house would generate jobs but these are likely to be few and part-time in nature such that the loss of any employment opportunities here is unlikely to be significant.

**RECOMMENDATION: the following condition be added:**

**No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification 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. Details are required before development commences given the nature of archaeological remains.**

# Agenda Item 15



**16-508545 - 4 Quarter Paddocks**

Scale: 1:1250

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## REPORT SUMMARY

<b>REFERENCE NO -</b> 16/508545/FULL		
<b>APPLICATION PROPOSAL</b> Moving mobile home and erection of new day building.		
<b>ADDRESS</b> 4 Quarter Paddocks Bletchenden Road Headcorn Kent TN27 9JB		
<b>RECOMMENDATION</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposed development is considered to comply with the policies of the Maidstone Borough-Wide Local Plan 2000, the Submission Version of the Maidstone Borough Local Plan, 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> - Headcorn Parish Council wish to see application refused.		
<b>WARD</b> Headcorn	<b>PARISH COUNCIL</b> Headcorn	<b>APPLICANT</b> Mr Jimmy Baker
<b>DECISION DUE DATE</b> 06/03/17	<b>PUBLICITY EXPIRY DATE</b> 03/02/17	<b>OFFICER SITE VISIT DATE</b> 28/02/17
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		

- 15/509482 (plot 1) – Extension to existing site to form additional plot, comprising of siting 1 static mobile home and 1 touring caravan. Re-positioning of 1 static mobile home and erection of storage/dayroom to plot 1 (part-retrospective) - Approved
- MA/13/1315 – Continued occupation of site but with variation of following conditions to allow:  
 Condition 2: To enable unrestricted occupation by any gypsy/traveller family;  
 Condition 3: To enable permanent occupation by gypsy and traveller family;  
 Condition 4: Increase number of caravans on site to 4 static and 4 tourers - Approved
- MA/03/2366 - Change of use of land for stationing of 3 mobile homes for gypsy family – Refused (allowed at appeal)

## MAIN REPORT

### 1.0 Site description

- 1.01 The application site relates to plot 4 of Quarter Paddocks, which is the western-most plot on the site. Currently on site is 1 mobile home and a small utility room; and vehicle access into the site is from Bletchenden Road, some 290m to the west of the junction with Biddenden Road. The road frontage of the site is landscaped with substantial planting abutting both sides of the access track and for part of the length of the internal service road. For the purposes of the adopted Local Plan the proposal site is within the countryside that falls within a Special Landscape Area; and the submitted version of the Local Plan sees the site within a Landscape of Local Value.

### 2.0 Background information

- 2.01 The proposal site, known as plot 4 Quarter Paddocks, benefits from an unrestricted permanent permission under MA/13/1315; and Mr Baker and his wife and children (and now grandchildren) have lived on the site since 2003.

### 3.0 Proposal

- 3.01 The proposal is for the erection of a new day building, which is to be sited where the mobile home is currently stationed. The mobile home would be moved forward (northwards) by some 11m. The day building is not proposed to be used as additional sleeping accommodation.
- 3.02 With its hipped roof, the day building would measure some 15.8m by 7.6m; its eaves height would be some 2.4m; and its ridge height some 5.3m.

### 4.0 Policies and other considerations

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
  - National Planning Policy Framework
  - National Planning Practice Guidance
  - Planning Policy for Traveller Sites (2015)
  - Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
  - Submitted version of Local Plan (2011-2031): SP17, DM16, DM34
  - Headcorn Neighbourhood Plan
- 4.01 Please note that emerging policies SP17, DM16 (now to be DM15) and DM34 (now to be DM30) are part of the Schedule of Proposed Main Modifications to the Reg 19 Maidstone LP (March 2017).

### 5.0 Consultee responses

- 5.01 **Headcorn Parish Council:** Wishes to see the application refused and reported to planning committee;

*"The committee reviewed the application and detail and had the following observations:-*

- *Property is situated in Flood Zone 3;*
- *Flood Risk Assessment was dated 2004;*
- *FRA was in relation to a mobile home and not a permanent structure;*
- *Proposed structure was substantial building, on par with bungalow and could not be considered a day room given amenities that it would include. The level and type of amenities would suggest that mobile would be used only for sleeping and this proposal did not fit with "gypsy life style" and was more akin to settled life style;*
- *Structure of this nature would adversely affect drainage and cause additional flooding to neighbouring properties."*

- 5.02 **Environment Agency:** Raise objection (see main body of report).
- 5.03 **Environmental Protection Team:** Raises no objection.
- 5.04 **KCC Highways:** Raise no objection.
- 5.05 **Upper & Lower Medway IDB:** Object to application if day room is to be slept in, in terms of site being within Flood Zone 3.
- 5.06 **Neighbour responses:** 1 representation received from Shenley Farms (Aviation) Ltd, raising no objection provided development would not have adverse impact on Headcorn Aerodrome.

### 6.0 Policy background

- 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 proposal site is subject to the normal constraints of development in the countryside that is within a Special Landscape Area under saved policies ENV28 and ENV34 of the adopted Local Plan; and saved policy ENV28 states;

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

- 6.03 The submitted version of the Local Plan is also considered to hold significant weight and emerging policies SP17 and DM34 within it seek to protect the landscape character of the countryside that falls within a Landscape of Local Value; and emerging policy DM16 accepts G&T development in the countryside provided subject to the detail of any proposal. Please note that emerging policies SP17, DM16 (now to be DM15) and DM34 (now to be DM30) are part of the Schedule of Proposed Main Modifications to the Reg 19 Maidstone LP (March 2017).
- 6.04 Furthermore, the NPPF makes it clear that there should be a presumption in favour of sustainable development (paragraph 14) which is defined as having three dimensions, those being economic, social, and environmental.
- 6.05 It should also be noted that the Inspector’s examination on the Headcorn Neighbourhood Plan was held in October 2016 and the Inspector’s ‘Report to Maidstone Borough Council of the Examination into the Headcorn Neighbourhood Plan’ was released on 19<sup>th</sup> March 2017. The Inspector’s recommendation is that this neighbourhood plan does not meet the Basic Conditions in terms of: having appropriate regard to national planning policy; contributing to the achievement of sustainable development; being in general conformity with the strategic policies in the adopted development plan for the local area; and compatibility with human rights requirements has not been demonstrated in the preparation of the Plan. The Inspector therefore concludes that the Plan should not proceed to a referendum. As such, the draft Headcorn Neighbourhood Plan is considered to carry very limited weight in the determination of this application.
- 6.06 This proposal is for a new day building and would involve the repositioning of the existing mobile home for a gypsy family that have occupied the site since 2003; and the site benefits from an unrestricted permanent planning permission. It is therefore considered unnecessary to discuss the need and supply of G&T sites; Gypsy status; and the sustainability of the site in terms of its location.
- 6.07 In summary, this type of development in the countryside is considered to be acceptable subject to the details which will now be discussed.

## **7.0 Visual impact**

- 7.01 Whilst guidance in the PPTS gives no specific reference to landscape impact, this is addressed in the NPPF; saved adopted Local Plan policies ENV28 and ENV34; and emerging Local Plan policies SP17 and DM34.
- 7.02 Views of plot 4 are limited from Bletchenden Road, given the well established hedge along the front boundary, limiting views to glimpses through the hedge and the vehicle access. Plot 4 is not significantly visible from any other public view point; and the proposal is not extending built development southwards into the countryside. The proposal would see the existing mobile home moved forward (northwards) some 11m, which would still see it set back more than 25m from Bletchenden Road. The proposed building would then be built where the mobile is currently stationed, being set back more than 40m from the road. Given the continued setback, the repositioned mobile home is not considered to be any more visually harmful when

compared to the current situation; and given that the proposed building would be further screened by the mobile home it cannot be argued that it would appear visually harmful from any public vantage point.

- 7.03 It should also be noted that plot 1 Quarter Paddocks benefits from planning permission for a day building under 15/509482, and this is currently being built. This building is in a similar position to this proposal, in terms of setback from the road; and it would have a larger footprint (16m x 8m) and would be taller (5.5m) than what is proposed under this application. There are also other mobile homes and buildings on the Quarter Paddock site. I am therefore satisfied that this proposal would not appear visually dominant or incongruous, when read in the wider context of the site.

## **8.0 Flood risk**

- 8.01 The site is located within Flood Zone 3a and the Environment Agency (EA) have raised objection for the following reason:

*"We have previously objected to and maintained our objection to the siting of caravans in flood zone 3. We are unable to remove our objection as guided by the National Planning Policy Framework which states that caravans, mobile homes and park homes intended for permanent residential use are classed as "Highly vulnerable" and should not be permitted in Flood Zone 3a. We also explain that there is a distance of over 100 metres from the caravan site along the access road where the flood depth will be 150mm. After around 100 metres, the road level rises and it is only then that dry access can be gained (heading east towards the A274)."*

- 8.02 As previously explained, Plot 4 Quarter Paddocks benefits from an unrestricted permanent permission under MA/13/1315; and this proposal would see the mobile home moved forward from its current position by some 11m only. Given the lawful status of the mobile home and the modest distance it is being repositioned (where land levels do not noticeably change), it is considered unreasonable to now refuse the application on the grounds of flood risk when this was a material planning consideration under previous applications. It should also be noted that permission for an additional pitch at Quarter Paddocks has also been recently approved under 15/509482. As such, there is considered to be insufficient reasons to raise objection to the repositioning of the mobile home on flooding grounds, despite the objections of the EA on emergency access and escape grounds. It is also considered, given the elevated nature of the mobile home that it would sit above the minimum level of 20.93m AOD (as required by the Environment Agency).
- 8.03 With regards to the proposed day building (which is not intended for sleeping accommodation), the EA have not objected in terms of flood storage capacity. Notwithstanding this, the EA have advised that day building would need to be at a height 300mm higher than the 100 year plus climate change flood level of 20.33m AOD, therefore a minimum floor level of 20.63m AOD. The applicant has confirmed that this will be the case and that the scale of the building (as shown on the submitted drawings) would not be altered to achieve this finished floor level.

## **9.0 Residential amenity**

- 9.01 The proposed development, given its scale, design and location, will not have a detrimental impact on the residential amenity of any neighbouring property and so no objection is raised in this respect.



## **10.0 Highway safety implications**

- 10.01 This proposal is for a day building only; the existing access will be unaffected; and the site will continue to have ample on-site parking/turning facilities. Therefore, no objection is raised on highway safety grounds.

## **11.0 Other considerations**

- 11.01 Objections have been raised that the day building is comparable to a permanent dwelling. Such buildings are multi-functional in use comprising both family and service functions, and the proposal is consistent in scale with the already approved day building on plot 1 Quarter Paddock. The proposal is therefore not considered entirely unreasonable with modern day family requirements. In addition, there is no adopted policy in terms of what size day buildings should be; it is clear from the plans that it is not to be used as additional sleeping accommodation; and as set out above it does not result in any significant visual harm. No objection is therefore raised in this respect.
- 11.02 The Environmental Protection Team has raised no objection in terms of noise, amenity, air quality, land contamination and sewage (which will be dealt with via an existing septic tank). Given the existing development on the site and the nature of the proposal, no objection is raised on arboricultural or ecological grounds.
- 11.03 The issues raised by Headcorn Parish Council have been considered in the determination of this application and no objection is raised in terms of Headcorn Aerodrome.

## **12.0 Conclusion**

- 12.01 The proposal would not have a visually harmful impact upon the character and appearance of the countryside hereabouts; no objection is raised in terms of flood risk; there would be no harm to the amenity of any surrounding property; and there is no highway safety objection. I therefore consider that this proposal is acceptable with regard to the relevant provisions of the adopted and emerging Development Plans, the NPPF and all other material considerations such as are relevant and recommend conditional approval of the application on this basis.

## **13.0 RECOMMENDATION – APPROVE**

- (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 day building hereby approved shall be constructed in the external materials specified on the application form. It shall thereafter only be used in connection with the use of the site as a gypsy and traveller site, not for any trade or business purpose and at no time shall it be used as additional sleeping accommodation;

Reason: To ensure a satisfactory appearance to the development and in the interests of flood risk.

- (3) The day building hereby permitted shall have a minimum finished floor level of 20.63m AOD;

Reason: In order to reduce the risk to occupants from flooding.

- (4) The development hereby permitted shall be carried out in accordance with the following approved plans: 26791, 2 and 3 received 14/12/16;

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

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE MEETING**

**27 April 2017**

#### **Head of Planning and Development**

**Report prepared by Richard Timms**

**1. APPLICATION 15/503288/OUT – LAND AT WOODCUT FARM, ASHFORD ROAD, HOLLINGBOURNE, MAIDSTONE, KENT.**

**1.0 Issue for Decision**

- 1.1 To consider not defending the grounds for refusal at the Public Inquiry appeal into the above-mentioned planning application.
- 1.2 To consider the Council's position on potential amendments to the appeal proposals by the appellant.

**2.0 Reason for Referral to Planning Committee**

- 2.1 The appeal commenced on 27 January 2017. The Council is committed to the agreed appeal timetable, which requires the submission of its statement of case by 4 May 2017 (this being the second agreed extension to the original deadline). A pre-inquiry meeting is scheduled for 5 June 2017 and the parties are required to submit proofs of evidence in September 2017, four weeks prior to the commencement of the public inquiry on 10 October 2017. At present, the inquiry is estimated to continue for 10 days.
- 2.2 To date, Council has expended resources dealing with the appeal in terms of officers' work and Counsel's advice. Clearly, the appellant has also invested a significant amount of resources in support of its appeal. Both parties' costs will continue to rise as the appeal progresses.
- 2.3 The main parties to a planning appeal are subject to a duty to ensure that the Planning Inspectorate are informed of any material changes in planning circumstances relevant to the appeal, in particular, any changes in national or local planning policy that are relevant to the planning authority's reasons for refusal, and whether those reasons are still defensible. This report addresses this matter and recommends that the Council's reason for refusal cannot be defended at the public inquiry October 2017. To ensure the Council complies with the procedural requirements to submit its statement of case by the 4 May 2017 deadline and to reduce the Council's overall costs

liability, in particular, by avoiding the risk of an adverse cost award against the Council, it is important that any decision is taken as soon as possible.

### 3.0 Recommendation(s)

- 3.1 **Recommendation 1:** To agree that the sole reason for refusal recorded in the Council's decision notice, should not be defended on appeal.
- 3.2 **Recommendation 2:** To agree that the Council should adopt a neutral position in response to the Appellant's proposed amendments to the appeal proposals.
- 3.3 **Recommendation 3:** In the event that the appellant does not apply to amend the proposals, or if the Inspector does not accept the amendments, to defend the appeal, if necessary, on the basis that the application proposal does not accord with emerging Local Plan policy, in particular, policy EMP1(5) as proposed to be modified.
- 3.4 **Recommendation 4:** To agree that Members delegate authority to the Head of Planning & Development to negotiate the contents of any Section 106 Agreement.

### 4.0 Reasons for Recommendation(s)

- 4.1 There is considered to be no realistic prospect of defending Council's reason for refusal at appeal. Attempting to defend the Council's reason for refusal will expose the Council to a high risk of a very significant adverse costs award, on the grounds of unreasonable behaviour, by failing to produce substantial evidence to defend every aspect of the Council's reason for refusal. This risk of an adverse costs award is in addition to the Council's costs of defending the appeal, which would also be significant.
- 4.2 The decision to allow the Appellant to amend the application proposal is a matter for the Inspector, who must consider whether the amended proposals constitute a "substantial alteration" of what had been proposed by the application. The main consideration for the Inspector, amongst others, should be whether the development proposed was so changed that to grant permission would be to deprive those who should have been consulted of the opportunity of consultation. What constitutes a "substantial alteration" will depend upon the facts and circumstances of each case and is a matter within the discretion of the Planning Inspector.
- 4.3 Should the Inspector refuse to determine the appeal on the basis of the Appellant's proposed amendments, the application proposals do not accord with the emerging Local Plan policy, in particular, policy EMP1(5), as proposed to be modified.

- 4.4 Whatever the Committee decides, officers require delegated authority to negotiate the terms of a Section 106 Agreement.

5.0 Appraisal

Planning Application Background

- 5.1 The appeal relates to planning application 15/503288/OUT, which was an outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with maximum a floorspace of 46,623sqm. All matters were reserved for future consideration, save for access to the proposed development, the arrangements for which were detailed in the application.
- 5.2 The application was reported to Planning Committee on 30 June 2016 with an officer recommendation to grant outline permission subject to conditions and a Section 106 legal agreement.
- 5.3 Contrary to that recommendation, Members voted to refuse the application (by 7 FOR /6 AGAINST) on the following grounds:

*"The proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area, and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits are not considered to outweigh this harm. It would also cause less than substantial harm to the setting of the Grade II listed building 'Woodcut Farm' and any public benefits are not considered to outweigh this harm. The development would therefore be contrary to saved policies ENV21, ENV28, and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and advice within the National Planning Policy Framework 2012."*

- 5.4 Members were not given a costs warning before making their decision.
- 5.5 On 6 July 2016, the Council issued a decision notice (attached as **Appendix 1**) notifying the applicant of its decision to refuse planning permission. The notice recorded the Council's sole reason for refusing planning permission in the following terms:

*"(1) The proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area, and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits are not considered to outweigh this harm. It would also cause less than substantial harm to the setting of the Grade II listed building 'Woodcut Farm' and any public benefits are not considered to outweigh this harm. The development would therefore be contrary to saved policies ENV21, ENV28, and ENV34 of the Maidstone Borough-Wide*

*Maidstone Borough Local Plan Examination*

- 5.6 The Inspector appointed to carry out the Examination of the submitted Local Plan, Mr Robert Mellor, BSc DipTRP DipDesBEnv DMS MRICS MRTPI ("the Local Plan Inspector"), held Examination hearings over 20 days between 4 October and 13 December 2016. The Local Plan Inspector provide the Council with a report of his Interim Findings on 22 December 2016 ("Interim Findings"), which addressed key issues in the Examination and the need, or otherwise, for modifications to be made to the submitted Local Plan, to make it sound (within the meaning of paragraph 182 of the NPPF) and enable its adoption. The Interim Findings addressed employment allocations in paragraphs 109 to 112, which can be found at **Appendix 2**.
- 5.7 The Local Plan Inspector held the Examination hearing closing session on 24 January 2017, which included a discussion concerning the Council's additional submissions in response relating to employment issues; proposed changes to the submitted Local Plan; and the future programming of the examination.
- 5.8 On 14 March 2017, the Council's Schedule of Proposed Main Modifications to the submitted Local Plan was approved by the Council's Strategic Planning, Sustainability and Transportation Committee (SPS&T) for public consultation over a seven-week period, which ends on Friday 19 May 2017.
- 5.9 The Schedule includes the proposed Main Modifications to draft Policy EMP1(5) — to be renumbered EMP1(4) — and its supporting text (Reference MM39), which can be found at **Appendix 3**. The principal change to the pre-submission version approved by Full Council on 12 January 2016 and submitted for Examination, is that the site allocation is now required to provide a minimum of 10,000sqm of B1(a)/(b) floorspace, to be safeguarded from alternative uses until at least April 2026, of which 5,000 sqm will be in the form of serviced land.
- 5.10 The Schedule of Proposed Main Modifications records that the Council considers the Main Modifications to Policy EMP1(5) and its supporting text to be necessary:
- "To ensure the policy is positively prepared, effective and deliverable whilst seeking to meet identified needs."*
- 5.11 Subject to the need to convene additional hearings, the Local Plan Inspector will provide the Council with his Final Report on the Examination well before the commencement of the public inquiry.

### The Planning Appeal

- 5.12 On 22 December 2016, the applicant submitted an appeal to the Secretary of State against the Council's refusal to grant outline planning permission which is due to be considered at a public inquiry which is due to commence on 10 October 2017 and continue for 10 days. As is customary with public inquiries, the Council has appointed a barrister to advise the Council and appear on its behalf at the public inquiry. It is usual practice that the Council and its appointed Counsel review the reasons for refusal before submitting the Council's Full Statement of Case and, thereafter, continually monitor the main issues as part of the Council's preparation for the inquiry.
- 5.13 The Planning Inspector must determine this appeal, having regard to all material planning considerations, as they exist when making the decision. For that reason, the Council's Full Statement of Case must address any material changes in planning circumstances relevant to the appeal, which post-date the Council's refusal decision. That process requires the Council to assess whether, as a result of those changes, its reasons for refusing the application, or any part thereof, can no longer be defended. As stated above, practice guidance requires the main parties to an appeal to inform the Planning Inspectorate as soon as possible of any material changes in planning circumstances relevant to the determination of an appeal. It is also necessary to minimise the risk of an adverse costs award being made against the Council, on the grounds of unreasonable behaviour, which may include failing to produce substantial evidence to defend every aspect of its reason for refusal.
- 5.14 In accordance with those requirements, before submitting its Full Statement of Case, Officers have reviewed the Council's reason taking account of any material changes in planning circumstances relevant to the appeal and taken advice from Counsel. For the reasons explained below, Officers do not consider the Council's reason for refusal can be defended on appeal.

### Recommendation 1: To agree that the sole reason for refusal recorded in the Council's decision notice, should not be defended on appeal.

- 5.15 As an application for outline planning permission, consideration of matters relating to layout, scale, appearance, and landscaping were and continue to be reserved for future consideration. Accordingly, the main issues for consideration by the Committee were the principle of the development proposed and the acceptability of the access to the site. As such, it is reasonable to conclude that, when determining the application, the Committee did not consider matters reserved for later consideration. For example, the Committee did not (and could not) refuse the application because buildings might be too tall or because of their location, simply because these details were not up for consideration. On that basis, the Committee's reason for refusal must

be construed as an 'in principle' objection to the proposed development.

- 5.16 As an 'in principle' objection, the decision is fundamentally contrary to draft policy EMP1(5) of the submitted Local Plan. As was outlined in the original Committee report, this policy allocates the application site for 49,000sqm of employment floorspace and the application was considered fundamentally to comply with that policy. At the time of the Committee's decision, the Council had taken a democratic decision to submit its Local Plan for Examination, which included policy EMP1(5) allocating the land for employment development (Full Council, February 2016). As such, the Council had endorsed this policy on the basis that the development proposed in the site allocation was necessary to meet the identified employment needs in the Borough over the Plan period, to ensure the submitted Local Plan was sound and legally compliant. For these reasons, officers advised the Committee that policy EMP1(5) should be accorded significant weight in the determination of the application. Since February 2016, the Council has considered the site to be appropriate for employment development, subject to suitable mitigation. However, when determining the application, the Committee did not identify any basis upon which the proposal failed to accord with the criteria within draft policy EMP1(5) in the reason for refusal but, instead, decided to attach limited weight to the emerging allocation policy, and significant weight to the saved policies of the adopted Local Plan (2000) in reaching its decision; and considered that the public benefits of the proposal would not outweigh harm identified.
- 5.17 Following the Committee's decision to refuse the application, the Council did not remove the site allocation policy from the Local Plan and has defended the employment floorspace allocation in policy EMP1(5) during the Local Plan Examination hearings, which have now concluded.
- 5.18 In his Interim Findings, the Local Plan Inspector endorsed the general principle of the employment site allocation in policy EMP1(5), finding it necessary to meet identified need for employment development over the plan period, subject to the modifications recommended in his Interim Findings, which safeguard the majority of the proposed employment floorspace for B1(a)/(b) (office/research & development use). Indeed, the Local Plan Inspector considers, in the absence of alternative provision (beyond Woodcut Farm and other Local Plan site allocations) that there is likely to be a shortfall in office floorspace in the Borough over the plan period. In those circumstances, Officers consider it very unlikely that the Inspector's final recommendations concerning the adoption of the Local Plan will be inconsistent with his Interim Findings, and certainly not to the extent that he recommends the deletion of policy EMP1(5) site allocation.



- 5.19 During the Examination hearings, several changes to the submitted Local Plan were identified as being necessary to address the Local Plan Inspector's concerns about the soundness of the submitted Plan, and in response to his specific requests. The Inspector has confirmed the proposed changes which should be identified as proposed 'Main Modifications', which must be subject to public consultation. Main Modifications are those changes which the Inspector considers necessary to make the submitted Plan sound and legally compliant. It is important to note that, without those Main Modifications, including the proposed main modification 'MM39' to policy EMP1(5), the Local Plan Inspector cannot recommend the adoption of the Local Plan.
- 5.20 As the public inquiry into this appeal will not take place until October 2017, it is very likely that the Local Plan Inspector will have delivered his Final Report on the Examination of the Local Plan before the inquiry opens. At that stage, the Council may also have adopted the Local Plan, including the site allocation, subject to Main Modifications recommended in the Inspector's Final Report. Indeed, this is the Council's anticipated timetable for adoption of the Local Plan. In that event, the policies of the adopted Local Plan will become part of the statutory development plan and will replace the saved policies of the MBWLP (2000), including those cited in the Council's reason for refusal.
- 5.21 Accordingly, the Council's Full Statement of Case must also take account of the circumstances and relevant planning considerations which are likely to prevail from October 2017 onward. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Inspector to determine this appeal in accordance with the development plan, which at that stage, is likely to be the newly adopted Local Plan. In those circumstances, the Inspector must accord full weight to relevant Local Plan policies, including policy EMP1(5), as modified, when determining the appeal. Importantly, upon adoption of the Local Plan, the saved policies cited in the Council's reason for refusal will no longer be part of the development plan.
- 5.22 The Committee justified its decision to refuse outline planning permission by according limited weight to the relevant emerging Local Plan policies identified in the original Committee report. However, for the reasons set out above, matters have moved on significantly, and will continue to do so in the months ahead before the inquiry opens and thereafter when the Inspector determines this appeal. The level of weight to be accorded to those policies, in particular, the modified version of policy EMP1(5), should increase over time, as progress is made toward the Council's adoption of the new Local Plan. Consequently, it is no longer tenable for the Council to defend the Committee's reason for refusal, as it would be unreasonable for the Council to accord relevant draft Local Plan policies anything other than substantial weight.

- 5.23 With regard to the specific issues identified in the Council's reason for refusal, in respect of the alleged landscape impact, the Committee's reason for refusing permission does not explain how the proposals will cause harm to the character and appearance of the countryside, the Special Landscape Area, and the setting of the AONB, or the extent of that harm. Also, the Committee attached significant weight to saved policies of the Maidstone Borough-Wide Local Plan (2000) without citing relevant policies in the emerging Local Plan.
- 5.24 The Landscape and Visual Impact Assessment (LVIA) accompanying the application provides an assessment of the proposed development including viewpoints, the character and appearance of the countryside and Special Landscape Area, and the setting of the AONB. The Council's Landscape Officers considered the key principles of the Landscape and Visual Assessment to be acceptable. The proposed development also incorporates the landscape requirements of Policy EMP1(5), which as outlined above, must now be accorded substantial weight.
- 5.25 In relation to the setting of the listed building identified (Woodcut Farm), the reason for refusal does not explain how the setting of the Woodcut Farm (Grade II listed) contributes to its significance, the importance of that setting to the significance of the designated heritage asset, and how the proposal causes harm to the setting and thereby the significance of that asset. In respect of this aspect of the Council's reason for refusal, Members followed the advice of the Council's conservation officer. Again, this is set against the context of the Council having allocated the site for development, and thus accepting some impact upon the listed building. Nevertheless, even if the Inspector concluded that the proposed development would cause 'less than substantial harm', paragraph 134 of the NPPF requires the public benefits of the development proposal to be weighed against that harm.
- 5.26 Finally, having regard to the material changes in planning circumstance outlined above, the presumption in favour of sustainable development (within paragraph 14 of the NPPF) requires permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Applying that test, the Council's reason for refusal cannot be sustained.
- 5.27 For all these reasons and the matters addressed in Counsel's advice, Officers do not consider the reason for refusal can be sustained at appeal and, in those circumstances, it would be unreasonable for the Council to defend the appeal by reference to its reason for refusal.
- 5.28 The main parties agree that the public inquiry is likely to extend to 10 days to accommodate the examination of the evidence submitted by at least seven professional witnesses and the usual business of a public inquiry. As such, the amount of any adverse costs award is likely to be

very substantial and the Council's liability to pay any adverse costs award will be in addition to the Council's usual liability to bear its own costs associated with defending the appeal. For the same reasons, those costs are likely to be very substantial.

*Recommendation 2: To agree that the Council should adopt a neutral position in response to the Appellant's proposed amendments to the appeal proposals.*

- 5.29 As outlined above, since the Planning Committee's decision to refuse outline planning permission, the Council now accepts the Local Plan Inspector's recommendation that significant changes to the draft Local Plan site allocation policy are necessary to make the submitted Local Plan sound. The Council's SPS&T has now approved the Schedule of Proposed Main Modifications for public consultation to give effect to the Inspector's recommendations in his Interim Findings. The most significant changes to draft policy EMP1(5) are to provide at least 10,000sqm of B1(a)/B1(b) floorspace, which shall be safeguarded from any other uses until April 2026; and for 5,000sqm of this floorspace to be provided with access and be serviced prior to occupation of any other uses on site. The delivery of this much needed floorspace is a key priority of the allocation and the Local Plan's employment strategy.
- 5.30 The application proposal was based on the draft Local Plan policies, including the site allocation policy EMP1(5), as submitted to the Examination in May 2016. Due to the Proposed Main Modifications, which the Council accepts are necessary to make the submitted Local Plan sound, it is now necessary to consider whether the application proposal accords with draft Local Plan policies, in particular, policy EMP1(5), as proposed to be modified.
- 5.31 Understandably, to date, the Appellant has yet to respond formally to the Local Plan Modifications Consultation (and will no doubt do so during before the consultation ends on 19 May 2017). However, to inform the preparation of the Council's Full Statement of Case, at Officer's request, the Appellant has outlined its position in response to the proposed Main Modifications for the purposes of this appeal, as follows (Full Letter attached at **Appendix 4**):

*"Overall, it is the Appellant's intention to adhere as closely as possible to the additional requirements that have been introduced through the Proposed Modifications to Policy EMP1(5)."*

- 5.32 The Appellant considers the appeal background documents (e.g., the Environmental Assessment supporting the application, which includes the Transport Assessment) adequately assess the likely impact of the 10,000sqm increase in floorspace proposed in 'MM39'. However, the 'Building Areas Parameters Plan' submitted with application proposed 7,864sqm of Class B1(a)/B1(b) floorspace (within Plots C1-2 and D1-

- 2) and, as submitted, the shortfall of 2,136sqm does not comply with a key requirement of emerging development plan policy.
- 5.33 The Appellant proposes to address that shortfall by way of a section 106 planning obligation to secure the following measures:
- "(a) Notwithstanding the previously submitted Parameter Plans, the area of Plots A1-2 would be excluded from the proposed development. As a consequence of this change, reserved matters applications could not be submitted for Class B8/B1c development in the area of Plots A1-2 pursuant to the current proposed;*
  - (b) The Appellant would commit to submitting a new planning application for at least 2,500sqm of Class B1a/B1b floorspace, to be located within the excluded area, within a period to be agreed with MBC and use reasonable endeavours to obtain planning permission; and*
  - (c) The excluded area would be safeguarded from any other uses until April 2026, or until otherwise allocated through a Local Plan Review, or until alternative provision for at least 2,500 sqm of Class B1a/B1b floorspace is secured on an alternative plot in the vicinity of the excluded area."*
- 5.34 The Appellant's proposed amendments to the application scheme are intended to address the additional requirements introduced by proposed Main Modification 'MM39', including adjustments to the maximum unit sizes which are outlined in the draft Statement of Common Ground prepared by the Appellant and shown on the revised Building Areas Parameters Plan to be attached thereto. In terms of addressing the new policy requirement concerning the Minerals Safeguarding (i.e., the potential extraction of minerals prior to development), the Appellant proposes to deal with this by way of a planning condition. Otherwise, to the extent appropriate at the outline planning permission stage, these other changes could be secured by planning conditions, or a section 106 planning obligation.
- 5.35 Although planning appeals should usually be determined by reference to the application proposals considered by the local planning authority, in certain circumstances, amendments to the application proposal may be considered on appeal. In such circumstances, the Inspector must consider whether the amended proposals constitute a "substantial alteration" of what had been proposed by the application. The main consideration for the Inspector, amongst others, should be whether the development proposed was so changed that to grant permission would be to deprive those who should have been consulted of the opportunity of consultation. What constitutes a "substantial alteration" will depend upon the facts and circumstances of each case and is a matter within the discretion of the Planning Inspector.

- 5.36 The Planning Inspectorate's 'Planning Appeals Procedural Guide' confirms (within Annex M) that the Inspector will take account of these considerations, which are known as the "Wheatcroft Principles" when deciding whether the proposals can formally be amended on appeal. In this case, the Appellant contends that the amended proposals would fully accord with the Wheatcroft Principles, because the amended proposals already accord with the vast majority of the new criteria introduced by proposed 'MM39'; the changes proposed in the revised Building Areas Parameters Plan would be minor and would not affect the overall amount or location of the proposed floorspace; the changes would not affect the conclusions of the Environmental Assessment Addendum; and would not prejudice anyone involved in the appeal.
- 5.37 The Appellant's proposed amendments are a direct response to the proposed Main Modification 'MM39', which significantly alters the aims of draft policy EMP1(5) and the Council's aspirations for the development of the Site, within the wider context of the employment strategy in the Local Plan. The proposed Main Modification 'MM39' introduces a new key priority for the Woodcut Farm site (i.e., the delivery of at least 10,000sqm of new office/research & development floorspace (B1a/b), which importance of which is reflected in the new policy requirement to safeguard the land specifically for B1(a)/(b) and no other purpose, pending improvements in the viability position for such development improving in the latter part of the plan period.
- 5.38 Prior to Main Modification 'MM39' which the Council confirmed on 31 January 2017, the Appellant could not have foreseen the recently proposed key policy priority and associated safeguarding requirement, or the significance of the modifications to draft Local Plan policy. The Council's reason for refusal does not contend that the application proposals failed to accord with draft Local Plan policy EMP1(5), to the contrary, Officers considered the application to comply with the Council's policy priorities for the site at the time. Against that background, the Appellant's attempts to amend the proposals to adhere, as closely as possible, to the additional requirements that have been introduced through proposed MM39, will be relevant to the Inspector's decision whether to determine the appeal by reference to amended proposals.
- 5.39 Whether those amendments would result in a substantial alteration of the development proposed in the application will be a matter for the Inspector's judgement, taking proper account of the specific facts and circumstances of this case. The Wheatcroft Principles require the Inspector to consider, amongst other things, whether the amendment proposals would be "so changed that to grant permission would be to deprive those who should have been consulted of the opportunity of consultation".
- 5.40 Had the Appellant proposed similar amendments at the application stage, Officers consider that full re-consultation and advertisement

would have been carried out on the amendment proposals. Although the proposed amendments are intended to ensure compliance with recently proposed modifications to emerging development plan policy, it is impossible to know whether consultation responses would raise issues that, to date, have not been considered. As such, unless the amended proposals are subject to further consultation, the possibility that someone who should have been consulted being deprived of the opportunity of consultation, cannot be excluded.

- 5.41 Although details of layout, appearance, scale and landscaping are reserved, the application was accompanied by illustrative plans to show how the proposed amount of development could potentially be accommodated on the site. To date, the Appellant has stated that key site parameters, including the finished ground levels, and maximum height of buildings would be established through any grant of outline permission. By contrast, the Appellant's proposed mechanism for addressing the shortfall in B1(a)/(b) provision will require the submission of a second planning application to secure full compliance with the modifications to policy EMP1(5).
- 5.42 Although the proposal represents a reduction in the total amount of development, unlike other cases, the amendment does not result in any reduction in harm, or secure compliance with development plan policy. To the contrary, the Appellant accepts that compliance with proposed MM39 cannot be achieved by the Inspector granting outline planning permission in this appeal. The key priority of policy EMP1(5) can only be achieved through the submission of an additional application for planning permission and a further grant of planning permission. As such, the scope of the Inspector may conclude that the amended proposals, in qualitative and quantitative terms, constitutes a "substantial alteration" of the development proposed by the application.
- 5.43 The complex mechanism required to address the significant shortfall in B1(a)/(c) provision, could be avoided if the Appellant submitted a new application for outline planning permission, that comprehensively addresses the proposed changes necessary to secure compliance with the modifications to policy EMP1(5) and addresses the appeal proposal's shortfall in B1(a)/(b) provision, without the need to submit an additional planning application for at least 2,500sqm of B1(a)/(c) in the vicinity of the proposed excluded area. Doing so would allow interested persons to consider the amended proposals in their entirety and make representation, in the context of the significant modifications to policy EMP1(5), before outline planning permission has been granted for part of the development proposed.
- 5.44 The Council accepts that the Wheatcroft Principles are the main but not the only consideration which the Inspector must take into account when considering whether to determine the appeal by reference to the amendment proposal. The circumstances of the present case are



unusual and the Inspector should take account of the Appellant's reasons for proposing the amendments; the history of the planning application and appeal; the public interest in delivering development on the site that accords with the key priority of emerging development plan (as modified); the futility of determining the appeals on the basis of scheme that neither the Appellant or the Council supports; and the prejudice which the Appellant is likely to suffer if the Inspector refuses to determine the appeal on the basis of the amended proposals.

- 5.45 In all the circumstances, Officers consider that the appeal process should not be used to circumvent that the procedural protections afforded by the Part III of the Town and Country Planning Act 1990, which cannot be guaranteed by the Appellant's proposed amendments to the application scheme, which considered as whole, constitute a substantial alteration to the proposals considered by the Council's committee in June 2016. For the reasons set out above, the Appellant should submit a new application for outline planning permission for the amended proposals, the determination of which will ensure that interested persons are given a proper opportunity to consider and comment on the proposals and participate in the decision-making process.
- 5.46 The appeal process cannot replicate the procedural protections guaranteed by the planning application process and should not be used to evolve proposals for development. The prompt submission of a new application would allow the merits of the proposals to be considered in advance of the public inquiry. Submitting a new application for planning permission would not require the Appellant to withdraw this appeal and, whatever the outcome, the determination of the new application will be relevant to the conduct and, if necessary, the determination of the appeal.
- 5.47 For the reasons set out above, at this stage, Officers do not consider it necessary or appropriate to support the Appellant's proposed amendments to the application proposals, and should encourage the Appellant to submit a new application for outline planning permission for its amended proposals, before formally applying to amend the appeal proposal. Subject to raising the concerns identified above, the Council should adopt a neutral position in response to the Appellant's proposed application to amend the appeal proposals.
- 5.48 Unless and until the Appellant withdraws this appeal, the Inspector must hold the planning inquiry before determining the appeal, even if the Council decides not to defend its reason for refusal. In those circumstances, the Council must attend the inquiry and submit evidence. However, if the Council decides not to defend its reason for refusal, its evidence will be limited to explaining the basis upon which it no longer objects to the proposed development, and the basis upon which outline planning should be granted. In such circumstances, the primary role of the Local Planning Authority will be to assist the

Inspector and, although the Council will not challenge the Appellant's evidence or cross-examine the Appellant's witnesses, the Council will actively participate in important aspects of the inquiry process, including, for example, the usual round-table discussion on conditions and planning obligations.

- 5.49 The Council's evidence may also address relevant matters upon which the Appellant and the Council may not agree, subject to the proviso that any disagreement between the parties does not justify withholding outline planning permission.

*Recommendation 3: In the event that the appellant does not apply to amend the proposals, or if the Inspector does not accept the amendments, to defend the appeal, if necessary, on the basis that the application proposal does not accord with emerging Local Plan policy, in particular, policy EMP1(5) as proposed to be modified.*

- 5.50 Should the Inspector refuse to determine the appeal on the basis of the Appellant's proposed amendments, or in the event the Appellant does not apply to amend the appeal proposals, the Inspector must determine the appeal on the basis of the development proposed in the application. For the reasons stated above, the application proposals do not accord with policy EMP1(5), as proposed to be modified.

- 5.51 Having regard to the material changes in planning circumstances referred to above, in the unlikely event of the Appellant pursuing the appeal on the basis of the application scheme, or the Inspector refusing to accept the amendments, it would be reasonable for the Council to resist the appeal on the grounds that the application proposals do not accord with Local Plan policy EMP1(5) as proposed to be modified. For the avoidance of doubt, this is not to defend the reason for refusal recorded in the Council's decision notice.

*Recommendation 4: To agree that Members delegate authority to the Head of Planning & Development to negotiate the contents of any Section 106 Agreement.*

- 5.52 As the application was refused by the Planning Committee, the Constitution requires the Committee to delegate authority to officers to negotiate the terms of any Section 106 Agreement. Whether or not the Council defends the reason for refusal, it must negotiate the terms of a section 106 planning obligation to ensure that development is acceptable in planning terms, if the Inspector allows the appeal.

## 6.0 Alternative Action and why not Recommended

- 6.1 Recommendation 1: The alternative course of action would be to continue to defend the grounds of the refusal. However, for these reasons explained, that alternative would be unreasonable and very



- likely to fail, thereby exposing the Council to a very significant adverse costs award.
- 6.2 Recommendation 2: The alternative course of action would be to actively object to the Appellant's proposed amendments to the appeal proposals. Officers advise the proposed changes would not cause prejudice to the conduct of the Council's case, and indeed support the Council's emerging policy for the site.
- 6.3 Recommendation 3: There is no alternative course of action open to the local planning authority.
- 6.4 Recommendation 4: The alternative course of action would be not to agree delegated authority to negotiate the Section 106. This would deny the Council the opportunity to negotiate an appropriate legal agreement for the scheme and the risk of planning permission being granted for development that is unacceptable in planning terms. Failure to negotiate the terms of a section 106 planning obligation would constitute unreasonable behaviour and expose the Council to the risk of an adverse costs award.
- 7.0 Risk Management
- 7.1 In the circumstances, attempting to defend the appeal by reference to the Council's reason for refusal would expose the Council to a very high risk of an adverse and substantial costs award. That risk can be avoided or mitigated by confirming in its Full Statement of Case that the Council will not defend the appeal by reference to the sole reason for refusal recorded in the decision notice refusing to grant planning permission.
- 8.0 Other Implications

1. Financial	x
2 Staffing	
3 Legal	x
4 Equality Impact Needs Assessment	
5 Environmental/Sustainable Development	x
6 Community Safety	
7 Human Rights Act	
8 Procurement	



9.0 Financial Implications

- 9.1 The Council should ensure that it minimizes the risk of incurring costs that can and should be avoided. Having regard to the advice in this Report, the Council should not defend the reason for refusal to minimize the risk of incurring costs. It is not possible to quantify the level of costs but they are likely to be significant.

10.0 Legal Implications

- 10.1 The legal implications and issues are set out in the body of the report.

11.0 Conclusions

- 11.1 For the reasons set out in this report, the Council's reason for refusal cannot be sustained at appeal and attempting to defend the Council's reason for refusal would be unreasonable and very likely to fail, thereby exposing the Council to a very significant adverse costs award, in addition to having to bear the its own costs defending the appeal.
- 11.2 In the event of the Appellant refusing to submit a new application for planning permission, the Council should adopt a neutral position in respect of the Appellant's proposed amendments, and object to the application proposal if the Appellant pursues the appeal on that basis. The Council will continue to negotiate the contents of any Section 106 Agreement; and to provide evidence on any relevant matters relating to the appeal.

12.0 Relevant Documents

- 12.1 Appendices

**Appendix 1:** Decision Notice

**Appendix 2:** Local Plan Inspector's Interim Findings

**Appendix 3:** Main Modification of Policy EMP1(5) (Ref. MM39)

**Appendix 4:** Barton Willmore Letter on behalf of Appellant



Roxhill Developments Ltd  
C/O  
Hobbs Parker Property Consultants  
Romney House  
Monument Way  
Orbital Park  
Ashford  
TN24 0HB

6 July 2016

## PLANNING DECISION NOTICE

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<b>APPLICANT:</b>	<b>Roxhill Developments Ltd</b>
<b>DEVELOPMENT TYPE:</b>	<b>Large Maj Office/R&amp;D/Light Industry</b>
<b>APPLICATION REFERENCE:</b>	<b>15/503288/OUT</b>
<b>PROPOSAL:</b>	<b>Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, maximum floor space 46,623 square metres. (access being sought).</b>
<b>ADDRESS:</b>	<b>Land At Woodcut Farm Ashford Road Hollingbourne Kent ME17 1XH</b>

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The Council hereby **REFUSES** Outline Planning Permission for the above for the following Reason(s):

- (1) The proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area, and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits are not considered to outweigh this harm. It would also cause less than substantial harm to the setting of the Grade II listed building 'Woodcut Farm' and any public benefits are not considered to outweigh this harm. The development would therefore be contrary to saved policies ENV21, ENV28, and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and advice within the National Planning Policy Framework 2012.

**MKPS – Working in Partnership with:** Maidstone Borough Council

**Please Note:** All planning related correspondence for MBC should be sent to:  
Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ  
Tel: 01622 602736 email: [planningsupport@midkent.gov.uk](mailto:planningsupport@midkent.gov.uk)  
Access planning services online at: [www.maidstone.gov.uk](http://www.maidstone.gov.uk); or submit an application via [www.planningportal.gov.uk](http://www.planningportal.gov.uk)

The Council's approach to this application:

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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Yours faithfully

*R. L. L. Jarman*

**Rob Jarman**  
**Head of Planning Services**  
**Maidstone Borough Council**

**IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**

## NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF PERMISSION OR GRANT OF PERMISSION SUBJECT TO CONDITIONS

This decision does not give approval or consent that may be required under any act, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

### Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990.

**Please see “Development Type” on page 1 of the decision notice to identify which type of appeal is relevant.**

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of service of the enforcement notice, or within **6 months [12 weeks** in the case of a **householder** or **minor commercial** application decision] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a **Householder** application or a **Minor Commercial** application and you want to appeal the LPA's decision, or any of the conditions imposed, then you must do so within **12 weeks** of the date of this notice.
- In all other cases, you will need to submit your appeal against the LPA's decision, or any of the conditions imposed, within **6 months** of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

## INTERIM FINDINGS FROM THE EXAMINATION OF THE MAIDSTONE BOROUGH LOCAL PLAN

22 December 2016

**Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI**

**An Inspector appointed by the Secretary of State for Communities and Local Government**

### **The scope of these findings**

This paper has been produced to address a number of main matters which have been discussed at examination hearings to indicate where main modifications may or may not be required to make the Plan sound. It does not cover every matter but it provides a broad overview. It is also intended to assist in identifying where further work may be needed to support an update of the proposed changes that have already been prepared by the Council and which will form the basis of draft main modifications to the Plan (to be supported by revised sustainability appraisal) which would then be subject to public consultation. Such main modifications are also likely to include additional and typically more detailed matters which have previously been the subject of changes proposed by Maidstone Borough Council. These have been the subject of discussion at Examination hearings.

These are interim findings only. Final and fuller conclusions on the matters and issues referred to below will be set out in the Final Report at the end of the Examination process.

### **Matter 1: Duty to Cooperate**

*Issue – Whether the Local Planning Authority and other relevant persons have complied with the Duty to Cooperate?*

1. S33A of the P&CPA sets out a statutory 'Duty to Cooperate' (DtC) which here applies to Maidstone BC and other local planning authorities, to Kent County Council, and to other persons prescribed by Regulation 4 of the Town and Country Planning (Local Planning) England Regulations 2012 (the Regulations).
2. The duty requires those persons to cooperate with other persons to 'maximise the effectiveness' with which named activities are undertaken. Those activities include the preparation of development plan documents (such as this local plan) and activities that support that activity 'so far as relating to a strategic matter'. A strategic matter is defined by S33A(4) in summary as: (a) 'sustainable development or use of land that has or would have a significant impact on at least two planning areas' (a planning area in this case is the area of a borough or district council); and (b) 'sustainable development or use of land in a two tier area' (as this is) 'if the development

or use (i) is a county matter, or (ii) has or would have a significant impact on a county matter'. County matters broadly relate to minerals and waste and associated developments as defined by Paragraph 1 of schedule 1 to the Town and Country Planning Act 1990 (as amended).

3. S33A(7) requires persons subject to the DtC to have regard to any guidance issued by the Secretary of State about how the duty is to be complied with. In that regard Paragraph ID 9-004-29140306 of the Government's Planning Practice Guidance (PPG) confirms amongst other things that the duty to cooperate is not a duty to agree albeit that local planning authorities should make every effort to secure the necessary cooperation on strategic cross border matters before they submit local plans for examination.
4. A number of Representors have claimed that MBC as the local planning authority has not complied with the DtC. These claims are made mainly in relation to the following broad subject areas:
  - Cross border housing needs and supply
  - Cross border provision for economic development and employment
  - Provision of strategic infrastructure, especially transport
  - Cross border strategic gaps in development
  - Minerals Planning Issues
5. MBC has issued a Duty to Cooperate Compliance Statement [SUB 005] as recommended in paragraph ID 9-011-20140306 of the PPG. This was published after the closing date for representations on the submission plan and thus was not available when Representors were preparing their representations. It lists the relevant bodies and the forms and methods of cooperation undertaken over many years. This demonstrates that there has been extensive engagement notwithstanding that the minuting of meetings and their outcomes is sometimes incomplete.
6. The DtC Statement sets out the 4 strategic areas where there has been active cooperation under the following headings:
  - The homes needed in the area
  - The provision of employment, retail and commercial development

- The provision of infrastructure (includes transport)
  - The natural and historic environment
7. There has not been agreement between the Borough Council and all the persons with which there has been engagement under the DtC and that has impaired the ultimate effectiveness of cooperation. However the above national guidance confirms that there is not a duty to agree. Whether a lack of agreement raises an issue of soundness may be of relevance to other interim findings.

**The evidence of the DtC Statement and supplementary evidence provided during the examination supports my conclusion that the Borough Council has engaged with neighbouring authorities and prescribed bodies to address strategic matters and has sought maximum effectiveness. It has therefore met the statutory duty set out in section 33A of the 2004 Act.**

## **Matter 2: Objectively Assessed Housing Need (OAHN)**

8. The National Planning Policy Framework at paragraph 47 provides amongst other things and in summary, that to boost significantly the supply of housing local planning authorities should:
- 'Use their evidence base to ensure that their Local Plan meets the full objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period'.*
9. Based on the 2015 Update of the Strategic Housing Market Assessment (SHMA) the submitted Local Plan identifies an Objectively Assessed Housing Need for 18,560 dwellings over the full Local Plan period between 1 April 2011 and 31 March 2031 (928 dwellings per annum).
10. The Housing Topic Paper [[SUB 005] records that 2,860 dwellings had been completed by 31 March 2016 and that there were extant planning permissions at 1 April 2016 for 5,475 dwellings (including a 5% non-implementation discount). That would leave a residual need for 10,225 dwellings.



11. A significant number of additional dwellings have either been permitted since 1 April 2016 or are the subject to a resolution to permit subject to the completion of a Section 106 planning obligation.

*Issue - Whether the OAHN is based on the appropriate Housing Market Area*

12. The Housing Market Area (HMA) for Maidstone as employed in the SHMA overlaps into Tonbridge & Malling Borough to the west. The Ashford HMA extends into Maidstone from the east. The SHMA has been commissioned jointly to assess needs in all 3 areas. Whereas a small part of the Borough's existing stock abuts the Medway towns there is little development potential in that area and it is appropriately included in the Maidstone HMA for the purposes of this assessment.
13. Housing Market Areas may need to be adjusted in the future to reflect changing migration patterns. However that is not necessary at this stage.

**The Housing Market Areas have been appropriately assessed for the purposes of the SHMA.**

*Issue - What may be the contribution of local needs to the OAHN by comparison with migration from outside the Borough*

14. Only about one quarter of the anticipated population growth in Maidstone is expected to come from natural growth of the existing population. The remainder is expected to result from net migration with about half of the total accounted for by internal migration from elsewhere in the UK including from London and from other Kent Boroughs or Districts. The remaining one quarter would come from international migration. The Annual Monitoring Report July 2016 records that the average total net migration inflow per year in the ten years up to 2014 was 1,317 people. That would equate to 13,170 persons over that period. The overall population rise in Maidstone between 2005 and 2015 is estimated at 21,146 persons including natural growth.
15. To seek to assess only those needs arising from the existing population would be ineffective in that continued migration from London or other areas could not be prevented and local people would likely be outbid in the market by those moving from higher value areas.
16. Whilst some Representors suggest that international migration will reduce as a result of Brexit, the current ONS projections only assume net international in-migration of 180,000 persons per year. The current rate of net

international in-migration is running at about 330,000 persons per year of which more than half are from outside the EU. That does not suggest that an early net reduction below 180,000 can be relied upon or that there is any reliable basis to amend the forecast need in Maidstone.

**The OAHN has made an appropriate assessment of local needs and of those arising from migration from outside of the Borough.**

*Issue - Effect of the 2014-based household projections*

17. Whereas the SHMA is based on the 2012 household projections, the ONS has since published 2014 based projections. These indicate a modest increase in need. However national PPG at 2a-016-20150227 makes clear that a new projection does not automatically mean that housing assessments are rendered outdated every time new projections are issued.

**Whilst the latest information would need to be taken into account at the date of a Plan review, I do not consider that it is necessary to alter the assessment at this stage to reflect the 2014-based household projections and to do so would only delay the delivery of that housing for which the need has already been identified.**

*Issue - Whether the OAHN should be reduced because of a claimed previous over-supply of housing*

18. Some Representors have argued that there has been a past 'spike' in housing delivery as a result particularly of high density flatted developments on brownfield sites at a time when there was a moratorium on greenfield development. That is claimed to have distorted the trends that have informed the ONS population and household projections. They point to advice in national Planning Practice Guidance at paragraph ID 3-036-20140306 that consideration can be given to evidence that the Council has delivered over and above its housing need in previous years and that past high delivery rates are no longer realistic.
19. However the South East Plan targets for Maidstone were not based on an objective assessment of needs in this Borough but were instead informed by wider regional and sub-regional assessments with individual targets for local areas that took into account a deliberate redistribution of population and households. Also there is no evidence that past delivery rates, which in any case were lower than now proposed, will not be maintained or exceeded. Office to residential conversions in Maidstone and other redevelopment are likely to continue to make a significant contribution to housing supply including high density flats. The SHEDLAA has identified extensive supply

elsewhere including greenfield development which had previously been precluded.

**It would not be appropriate or necessary to reduce the OAHN because of alleged past over-supply of housing.**

Issue - Whether additional provision should be made for increased population as a consequence of changing migration patterns with London or other migration from areas where supply may be constrained.

20. Representors have raised an issue as to whether adequate provision has been made for migration from London or from parts of West Kent where there are particular development constraints, notably the Metropolitan Green Belt.
21. There are disputes as to whether London is able to meet its own housing needs within its defined Housing Market Area in accordance with the London Mayor's previously stated intention. This relates both to whether those needs have been appropriately assessed and whether the London Boroughs have the capacity to meet the assessed requirement. An important consideration is whether insufficient housing supply in London or affordability issues will result in an uplift in migration from London to the rest of the South East including Maidstone.
22. The SHMA Update 2015 gave consideration to the potential effect of higher migration from London than that assumed in the ONS projections. Past migration figures at Table 28 of Document HOU 004 show that the net annual population flows from London to Maidstone averaged 760pa before 2008 but only 467pa in the period between 2007-2012 which is the period used for the ONS 2012 Sub National Population Projection. On the basis of a forecast that there may be a return to higher levels of movement in between these 2 rates a sensitivity analysis indicates that this could add demand for an additional 5.1% households in Maidstone. However the London Mayor has not requested that authorities outside London accommodate higher levels of migration and no additional allowance for higher migration has been included in the Maidstone OAHN.
23. The west Kent Boroughs of Tunbridge Wells and Sevenoaks have particular constraints on development including extensive areas of Green Belt. If they do not plan to meet their own assessed needs (including migration from London) then there could be increased migration to other areas such as Tonbridge & Malling (which has an overlapping housing market area) and

Maidstone. However whilst those Boroughs have identified an OAHN significantly above the annual housing requirement previously set by the South East Plan, they have yet to determine what their housing requirement should be in future years.

**Whilst it is not impossible that increased migration from West Kent or London would place pressure on areas such as Maidstone with transport links those areas, this is a matter which would best be considered at the first Review of the Local Plan when policy provisions for London and west Kent will be clearer.**

*Issue - Whether the OAHN is based on an appropriate Average Household Size*

24. Household size can significantly affect the projected need for dwellings. A long term trend towards smaller household sizes was arrested in recent years. This probably results from the suppression of household formation because of weak affordability, particularly for young people. However the planned uplift in the supply of market and affordable housing should improve affordability with a return to the trend towards smaller households.

**The OAHN is based on appropriate Average Household Size.**

*Issue - Whether the OAHN should include a market signals adjustment for housing affordability*

25. The OAHN figure of 18,560 dwellings in the submitted Local Plan includes an approximate 5% uplift for market signals. That equates to 45 dwellings per annum or a total of 900 dwellings over the full plan period.
26. At the examination hearings it was acknowledged by participants that the figure is arbitrary and lacks a scientific basis. The Home Builders Federation acknowledged that a 5% uplift would be too modest to make a difference to affordability and they sought a higher uplift. A modest uplift is unlikely to have a significant effect on market values, particularly if developers do not increase building rates by the same margin. In that regard representatives of the developer of the single largest housing site proposed for allocation told the Inquiry that they would be likely to deliver only 50 dwellings per annum rather than the 85 dwellings per annum previously advised. That 35dpa reduction alone would almost cancel out the 5% uplift which equates to only 45 dwellings per annum. Moreover new dwellings only account for a proportion of the total number of dwellings in the market which include many second hand properties.

27. A much more significant effect on market prices can be expected from the overall increase in past building rates that can be anticipated through the allocations in the plan. These are likely to at least double average completions during the early years of the remaining plan period. In these circumstances a still higher uplift is not justified.

**I do not consider that the 5% market signals uplift would have the desired effect or is justified in this case. The OAHN figure should accordingly be reduced by 900 dwellings.**

*Issue – Whether a need for Additional Affordable Housing would justify and overall increase in housing provision*

28. The Strategic Housing Market Assessment identifies an affordable housing need for 5,800 dwellings from 2013 to 2031. The Housing Topic Paper 2016 [SUB 005] identified a supply of 5,350 affordable dwellings from completions, commitments, allocated sites, broad locations and local needs housing on exception sites. That figure has already required revision to 4,961 following the reintroduction of Government policy to raise the threshold for developments where affordable provision is required. It will require further revision to reflect other changes in supply including a reduced supply from the Broad Locations. However there will be an opportunity at the plan review stage to identify further provision from alternative allocations. Additional supply is also expected from the activities of registered providers of social housing.
29. What effect a redefinition of affordable housing to include starter homes may have is uncertain and awaits further Government guidance. The SHMA Update also refers to the significant role of the private rented sector in Maidstone. Those who cannot obtain a mortgage sufficient to purchase in the open market are likely to sort to private rented housing and will pay a market rent which may or may not be supported by housing benefit. However this is not relied upon in the plan as part of the supply of affordable housing.

**There is not a current justification to increase the overall housing need figure as a means of boosting the supply of affordable housing.**

### **Matter 3: Housing Supply**

*Issue – Whether the housing supply proposed in the Local Plan is justified, effective, and consistent with national policy*

Issue – Whether there are constraints on the supply of suitable sites that would justify a lower housing requirement which would not meet or exceed the OAHN

30. That England as a nation has for a number of years been building many fewer houses than are needed by a growing population and growing household numbers has been widely reported. The resulting pressures on the housing stock and associated issues of affordability are particularly acute in London and the South East. As one of the main urban areas in Kent, Maidstone town cannot be insulated from these pressures and must have a role in addressing them, including migration from other areas. It is also appropriate to consider the role that the Borough's other settlements can play, particularly those that already have supporting services and infrastructure, such as the railway stations that provide connections to London and other parts of the region.
31. A Core Planning Principle of the National Planning Policy Framework at paragraph 17 is that planning should: *'proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities.'*
32. More specifically in relation to housing, paragraph 17 provides amongst other things that: *'To boost significantly the supply of housing, local planning authorities should: use their evidence base to ensure that their Local Plan meets the full objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.'*
33. In a letter to Helen Grant MP dated 24 September 2015 and attached to her Representation R19421, the then Minister of State for Housing and Planning, Brandon Lewis, made reference to the above guidance and confirmed that the housing need identified for Maidstone in the Strategic Housing Market Assessment is not the same as the housing requirement.

34. As the Minister pointed out: *'Once the need has been assessed the Council should prepare a Strategic Housing Land Availability Assessment [as it has] to establish realistic assumptions about the availability, suitability and likely economic viability of land to meet the need for housing over the plan period, and in so doing take account of any constraints such as Green Belt, which indicate that development should be restricted and which may restrain the ability of an authority to meet its need. Once these constraints are taken into account the Council can decide how many homes it can plan for. It is against this figure that the five year supply of land is calculated'*.
35. The Minister also pointed out that national planning practice guidance: *'makes it clear that local plans can pass the test of soundness where local planning authorities have not been able to identify sites or broad locations for growth in the years 11-15 of the plan period.'*
36. In the case of Maidstone the amount of brownfield land that is available for redevelopment falls well short of the assessed housing needs. In common with most towns in South East England the main town has grown organically in the past. Whilst that external growth was paused for several years in the early part of this century that position cannot be sustained if the town is to make an appropriate contribution to housing needs. There are nevertheless particular physical constraints on expansion which include the proximity to the Borough boundary to the west, the presence of the River Medway, and the physical barrier created by the M20 motorway to the north.
37. Unlike in much of west Kent, the Green Belt covers only a small part of Maidstone Borough and therefore does not represent a significant constraint on development across the Borough. The main potential constraints of relevance to national planning policy are rather: landscape (especially the Kent Downs AONB and its setting); transport and other infrastructure; agricultural land quality; flood risk; and the natural and historic environment. In some cases such as flood risk and agricultural land value national policy provides for a sequential approach to site selection. Other policy tests also provide in various ways for the weighing of any adverse impacts with any public benefits.

**Whilst development constraints are relevant considerations in Framework policies, they do not preclude all housing development or create a fixed capacity limit for the Borough. Rather it is necessary to assess locations individually and to apply judgements as to the impact of development there including whether what would be**



**significant adverse impacts can be adequately mitigated to allow development to proceed.**

**Because consideration of the relevant constraints involves judgements, there have been inevitable disagreements in the assessments of impacts as between the Council and those making representations on the Local Plan including those participating at the hearings.**

#### Housing Strategy

*Issue – Whether the plan is the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence*

38. Whilst the submitted Local Plan includes a Spatial Strategy set out in a single Policy SS1, it also includes other spatial policies that are strategic in nature. Some of the allocation and Development Management Policies are also wholly or partly strategic but are not clearly identified as such. The Council has been asked to reorder and amend policies so that the strategic policies are more readily identifiable.
39. A core planning principle of the National Planning Policy Framework at paragraph 17 is that planning should: *‘ actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable’.*
40. The spatial strategy set out in Policy SS1 of the submitted Local Plan appropriately seeks that Maidstone town is the principle focus of development to include making best use of available sites within the urban area, the town centre as the primary office and retail location and with strategic development to the north west and south east of the urban area. 5 rural service centres are identified as second tier locations for development with 5 large villages as third tier locations and restraint elsewhere.
41. Accessibility to services and facilities by sustainable modes will inevitably vary between locations and not all villages or suburban locations will have all services and facilities close at hand. However distance to facilities cannot be the only consideration. Other matters include infrastructure



capacity, congestion and site specific considerations such as the natural and historic environment.

42. The physical layout of the Borough including the existing distribution of settlements, the location of rail and road routes and landscape, flood risk and other environmental constraints all limit the reasonable alternative strategies. The Sustainability Appraisal appraised 5 alternative strategies for the distribution of housing development of between 18,600 and 19,600 dwellings. Two strategies involved a new settlement to the east of Maidstone but that was rejected because of the need for extensive new infrastructure and the harm to the area's character. The other rejected alternatives involved differing amounts of development at the villages, including whether or not there would be major development at Lenham. I consider that the alternatives have been appropriately assessed.

**The Spatial Strategy set out in the Local Plan for housing development is consistent with national policy to manage growth patterns that favour sustainable means of travel whilst also taking account of other relevant factors.**

**The strategic policies in the Local Plan should be more clearly identified and distinguished from the non-strategic policies.**

#### South East Maidstone

43. Policy SP3 of the submitted Local Plan proposes a Strategic Development Location comprising 6 housing sites in South East Maidstone on either side of the A274 Sutton Road. A key issue for these sites concerns highways and transport infrastructure. Some Representors including Kent County Council consider inadequate transport infrastructure to be a constraint that makes this location unsuitable for that development.
44. Maidstone currently experiences unusually high rates of car ownership and use, encouraged by the town's close proximity to the motorway network with 4 motorway junctions. Like other radial routes in Maidstone town which converge on the town centre gyratory system, the A274 Sutton Road already experiences congestion, particularly in the peak hours, as do the side roads that connect south east Maidstone to the A20 and M20 to the north of the town, avoiding the town centre. That congestion also affects bus services including a high frequency route that connects south east Maidstone to the town centre.

45. Under the heading '*Promoting sustainable transport*', Paragraph 32 of the National Planning Policy Framework provides amongst other things that:

*'Plans and decision should take account of whether:*

- *The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

46. Of the 6 housing sites included in the SP3 allocation, sites H1(5) and H1(6) were previously allocated for development in the current Local Plan that was adopted in 2000. Both sites are now under construction and will together provide some 886 dwellings. In each case the planning permission for the sites was granted in 2014 and gave effect to a unilateral planning obligation under Section 106 of the Town and Country Planning Act 1990 which included a financial contribution to highway mitigation works on the A274. The works included bus stops, highway widening, bus prioritisation measures between the Willington Street Junction and the Wheatsheaf junction, and junction capacity improvements in the vicinity of Willington Street and Wallis Avenue. The need for such works had been identified in the adopted Local Plan and in Transport Assessment for each site.

47. In accordance with paragraph 32 of the National Planning Policy Framework those works include an identified opportunity for sustainable transport. This would improve the reliability and speed of the bus service during congested periods and make it a more attractive mode of travel. The obligations would have been taken into account as highways mitigation when the planning permissions were granted.

48. The Local Plan is required to have regard to the Local Transport Plan. The Local Transport Plan for Kent 2011-2016 [Document ORD 013] (LTP3)

provides that the Maidstone Transport Strategy and an Integrated Transport Programme *'will be driven by the desire to preserve and enhance the accessibility of Maidstone town centre by sustainable means. The proposed level of development will be underpinned by a package containing a number of traffic management measures including the enhanced provision and priority of bus services through the Maidstone Quality Bus Partnership involving the County and Borough Councils along with the town's principal bus operator, Arriva. These priorities will drive scheme delivery irrespective of the future development scenario, with the detail and phasing dependent on the specific sites that come forward through the Local Development Framework'*.

49. The Implementation Plan for the Local Transport Plan theme of a 'Safer and Healthier County (2011-2016)' identifies the sole method of air quality management as *'Provision of bus priority and traffic management measures to reduce congestion and improve traffic flow in Air Quality Management Areas.'*
50. Bus priority on the A274 Sutton Road would accord with those priorities and in any event had already featured in the adopted Local Plan of 2000. Whilst the Local Transport Plan refers to the then draft target of 10,080 dwellings in Maidstone Borough that referred only to a plan period ending in 2026, not 2031. In any case the Local Transport Plan states that the priorities will be retained irrespective of the future development scenario.
51. It is acknowledged that the Local Transport Plan 2011-2016 (LTP3) is due to be replaced by the Local Transport Plan 4 2016-2031(LTP4) which is currently at draft consultation stage [Document TRA 034]. The draft plan contains much less detail than LTP3. Nevertheless it does set out outcomes which include measures to improve air quality, reduce congestion and improve journey time reliability, and to promote affordable, accessible and connected transport. A relevant Countywide priority is to provide: *'Increased access to jobs, education and health by public transport, providing opportunities to Kent's residents without the need for a private car and therefore reducing road congestion.* An integrated transport package remains a priority for Maidstone.
52. The Examination was informed that payments specified in the above S106 obligations have already been made to Kent County Council as the local highway authority. However the County Council has stated that whilst it supports the junction capacity improvements it will not implement the bus

prioritisation measures on the grounds that they would disadvantage other road users. The County Council is seeking instead to divert the relevant funds to pay for exploratory work to develop a case for a new road from the A274 to the A20 which road it would join in the vicinity of Junction 8 of the M20.

53. Of the remaining 4 sites in the SP3 allocation, sites H1(7), H1(9) and H1(10) are the subject of resolutions by the Borough Council to grant planning permission subject to the completion of S106 planning obligations which would also include transport mitigation payments. These would include additional contributions to bus priority measures, the provision of new bus services connecting south east Maidstone to railway stations (including the main Maidstone East station which is to be a Thameslink terminus), and various junction capacity works including signalisation to address congestion at Junction 7 of the M20. There is no application as yet on the fourth housing site - H1(8).

54. Kent County Council has not objected to the allocation of sites H1(5) and H1(6) which in any event are already committed. In these circumstances it is unreasonable for the County Council to obstruct the bus priority measures in Sutton Road on which the decisions to permit those developments were based and which accord with:

- saved policies of the adopted Local Plan;
- the Borough Council's Integrated Transport Strategy
- the sustainable travel objectives of the County Council's own Local Transport Plan 3 - 2011-2016;
- the similar objectives the County Council's emerging Local Transport Plan 4; and
- paragraph 32 of the National Planning Policy Framework.

55. The installation of an extended bus lane in Sutton Road would certainly qualify as a sustainable transport mode which has previously been identified as suitable in this location and its installation would be cost effective in that developer funding is already available. It would accord with the objectives of the adopted Local Plan and both the current and emerging Local Transport Plans. It has been relied upon as mitigation for the already permitted developments. To divert those funds to a study of a relief road would at

best delay mitigation by up to 10 years and at worst may result in no mitigation if that road does not go ahead. Neither would that road promote sustainable travel or provide significant transport capacity for movements between South East Maidstone and the town centre.

56. The County Council has suggested that a bus lane would disadvantage other road users but has not produced substantive evidence to that effect. The A274 Corridor Study prepared for the Borough Council contradicts that stance. It demonstrates that a bus lane can be provided within the existing highway land whilst maintaining one running lane in each direction for other traffic as at present. A bus lane would enhance the speed and reliability of bus services and provide a strong incentive for modal shift from car to bus use that would benefit all road users including other car drivers.
57. The County Council has objected to the allocation of the remaining four sites within the SP3 Strategic Development Location. This is on the grounds that their interpretation of transport modelling is that after mitigation the residual cumulative impacts of development would remain 'severe'. That modelling included a series of junction improvements but did not include any bus priority measures. The Borough Council disagrees that the impacts would be severe.
58. There is no national definition of what may constitute a severe impact and the Secretary of State's decision in relation to the New Line Learning appeal in Boughton Lane (see below) does not provide one. That decision related to a particular development with access to the A229 and where adequate mitigation had not been identified. That decision has in any event been quashed and new transport evidence is likely to be before the Secretary of State when it is redetermined.
59. Whilst the various Sutton Road developments would generate additional traffic movements some mitigation measures have been agreed by the County Council to increase junction capacities.
60. The County Council wishes to develop a case for constructing a new road between the A274 and the A20 which would by-pass the villages of Leeds and Langley and provide relief to existing roads (including Willington Street and the B2163) with potential environmental benefits as well as reduced congestion. Modelling suggests it may also reduce the number of cars heading through the town centre to destinations beyond the town. Such a

road was included in the adopted Local Plan 2000 and was also considered in the context of a new settlement but proposals for that settlement and a road were later abandoned. A new road may follow a different route. The Borough Council is generally supportive but funding the road would be a significant challenge unless it were to support further major development. In any event it would be unlikely to be delivered until very late in the plan period or even outside the plan period. It would not support the provision of housing that is needed in the shorter and medium terms and to delay that housing on the basis that a new road could be a possibility would not be justified when other measures are already available to mitigate its transport impacts.

**The Policy SP3 South East Maidstone Strategic Development Location will generate additional traffic but the concentration of development close to the town allows alternative means of travel to be made available and the development proposals include measures to mitigate the travel impacts include highway capacity improvements, and improved bus services supported by bus priority measures.**

#### Other South Maidstone Allocations

61. Traffic congestion is also a key issue for housing allocations that would rely on access to the A229 road which joins the A274 at The Wheatsheaf junction. In particular this relates to allocations H1(29) New Line Learning and H1(53) Boughton Lane. Both sites would be served from the northern end of Boughton Lane which joins the A229 at its junction with Cripple Street (also known as The Swan junction) to the south of The Wheatsheaf junction. In the submitted Local Plan these sites are proposed for allocation for 220 and 75 dwellings respectively.
62. The Borough Council has proposed a series of changes (PC/27, PC/28 & PC/29) which would: reduce the H1(29) allocation to 180 dwellings (with associated density changes); amend the access arrangements from Boughton Lane; and require capacity improvements at The Wheatsheaf junction (in addition to those already required by the policy at The Swan junction).
63. In 2014 the H1(29) site was the subject of a refused planning application for 220 dwellings. The appeal Inspector recommended, and the Secretary of State agreed in early 2016, that the appeal should be dismissed for reasons which included that the proposed development would have a severe adverse impact on the highway network in terms of congestion and inconvenience to local residents and other road users and on the strategic transport planning

of the area generally, contrary to the aims of paragraph 32 of the National Planning Policy Framework (App/U2235/A/14/2227839). That decision was subsequently quashed for unrelated reasons but is to be redetermined. The Highway Authority did not object to the original application but does now object to the proposal subject to the appeal redetermination.

64. Compared to that appeal scheme the H1(29) allocation including the proposed changes would amend the dwelling numbers and access arrangements within Boughton Lane. A scheme to alter The Swan junction has also been investigated as a means of improving its capacity. The Council has also proposed the addition of a policy criterion relating to capacity improvements at The Wheatsheaf junction. However one scheme to improve capacity by restricting access to the Cranborne Avenue arm of that junction has already been rejected. The alternatives would require land acquisition, road widening and the relocation of services which measures have not been agreed. The Kent County Council as Highway Authority now objects to the proposed allocation on the basis that the mitigation would not be sufficient to avoid a severe impact and it has particular safety concerns about the proposed Swan junction improvements.
65. The A229 already carries more traffic than the A274 and is also likely to attract additional movements due to development at villages to the south of Maidstone and the withdrawal from the Local Plan of proposals for a park and ride site at Linton Crossroads which would have diverted some trips. Unlike the A274 road there is insufficient room within the highway to create bus priority measures that would encourage modal shift. A lack of capacity at The Wheatsheaf junction is likely to contribute to queues backing up and obstructing the Swan junction. Moreover Boughton Lane is itself already anticipated to carry significantly more traffic due to school expansion.
66. In all of these circumstances I do not consider the allocation of the H1(29) site to be sound. The H1(53) site is proposed for 75 dwellings which would also generate significant movements in the northern part of Boughton Lane. Without adequate identified mitigation that allocation is also unsound and that site allocation should also be deleted.
67. The H1(54) Boughton Mount site is a brownfield site for only 25 dwellings. It was included on a list of sites in South Maidstone to which the Highway Authority objected in its letter of 16 December 2016. However it would generate fewer traffic movements than the H1(53) site to which the Highway



Authority did not then object and some movements would have been generated by the site's previous use. The allocation should be retained.

68. Another site H1(55) for 40 dwellings at the junction of Church Road and Heath Road in Boughton Monchelsea may also generate additional movements on Boughton Lane. However traffic from that site has the opportunity to disperse to other routes and is likely to do so depending upon congestion levels on each route. Its development has not been objected to by the highway authority in relation to traffic impacts. This allocation should also be retained.

**Having regard to the previous conclusions of the Secretary of State concerning development in Boughton Lane and because adequate mitigation measures for the impact on the A229 have not been demonstrated, allocations H1(29) and H1(53) should be removed from the Local Plan.**

#### Policy H2 Broad Locations for Housing Development

69. Paragraph 45 of the National Planning Policy Framework provides amongst other things that local planning authorities should identify a supply of specific deliverable sites sufficient to provide five years' worth of housing and to *'identify a supply of specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15'*. Footnote 12 provides that: *'To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged'*.

70. The submitted Local Plan relies on 3 Broad Locations for the delivery of 3,500 dwellings.

#### *H2(1) Town Centre Broad Location*

71. The submitted Local Plan defines the whole town centre as a broad location for approximately 700 dwellings. During the examination the Council clarified that this would not include the other specific allocations proposed within the town centre and that neither would it include all windfall



development. The Council has also proposed a change which would increase the estimated number of dwellings to 990 such that the total delivery from all 3 Broad Locations would rise to 3,790 dwellings.

72. As the town centre covers a large area and development could take a variety of forms, including high density and mixed development schemes, there is uncertainty about how and where this housing would come forward. In further evidence to the examination the Borough Council has agreed that the policy should be modified so that delivery is concentrated firstly on 2 locations where change is anticipated in the plan period – The Mall and the Riverside Quarter. Both were previously identified in the Town Centre Study [Document CEN 002]. The second main source of supply would be through office to residential conversions that would typically come forward through the prior notification process as permitted development. The scope for such development has previously been identified in Document ECON 002 and has been demonstrated by a stream of prior notification applications. The residual 50 dwellings on unidentified sites in the town centre would be removed from the Broad Location and added to the windfall allowance.

**The H2(1) Town Centre Broad Location should be amended to increase the amount of housing to 940 dwellings from the 700 proposed in the submitted Local Plan and to focus on the 2 areas of The Mall and the Riverside Quarter within which redevelopment is expected to deliver additional housing together with an allowance for office to residential conversions elsewhere in the town centre. 50 units should be added to the Borough wide windfall allowance in respect of other development on unidentified sites in the town centre that was previously part of the Broad Location allowance.**

#### *H2(2)Invicta Park Barracks Broad Location*

73. The second Broad Location identified for housing development in the submitted Local Plan is the Invicta Park Barracks site which at present remains in operational use. At the date of submission it remained uncertain whether the Invicta Barracks site would become available for development within the plan period. However the Ministry of Defence has since announced that the Barracks are to close in 2027. This is a brownfield site in a sustainable location. However it is improbable that all 1,300 dwellings proposed on the site could then be delivered before the end of the plan period. A more realistic figure would be 500 dwellings.

**The H2(2) Invicta Park Barracks Broad Location should be amended as only 500 of the anticipated 1300 dwellings are likely to be delivered within the Local Plan period.**

*H2(3) Lenham Broad Location and Allocations*

74. The submitted Local Plan proposed Lenham as a Broad Location to deliver 1,500 dwellings between 2026 and the end of the plan period in 2031. Lenham is unusually well provided with services and facilities including shops, a secondary school, a railway station and direct access to the A20. It is also in a housing market area which overlaps with that of Ashford. Nevertheless development on that scale would represent a very substantial increase in size for the village, the railway service is inferior to that on other lines, and the village is relatively distant from both Maidstone and Ashford. It would thus be improbable that housing could be delivered at the rate of 300 per annum implied by the policy.
75. There is no reason to delay delivery until 2026 (as proposed in the submitted Local Plan). However, as there is an available supply of planning permissions and proposed allocations in both Lenham and nearby Harrietsham, neither is it necessary or appropriate to bring development forward sooner than 2021, particularly as there are expected to be infrastructure constraints to be addressed including sewerage and waste water treatment capacity and the need for a new primary school.
76. The Council has agreed that 2 existing permissions for sites granted on appeal at Ham Lane and the Old Goods Yard should be deducted from the Broad Location figure. That would leave a need to identify sites for 1,350 dwellings. However I consider that it would remain unrealistic in this village location to deliver 135 dwellings each year for 10 years. I therefore consider that the Broad Location should be further reduced to 1,000 dwellings, equivalent to 100 dwellings per annum between 2021 and 2031.
77. There is controversy over where development should be located around Lenham and especially what effect housing development at Lenham would have on the Kent Downs AONB which borders parts of the village to the north. If development is to come forward after 2021 that would allow that the Lenham Neighbourhood Plan can determine what sites should be

allocated. In particular it can examine the scope for development south of the railway which the Borough Council no longer opposes in principle. To that end the Borough Council has agreed to delete an inset map from the submitted Local plan that suggested the Broad Location development would be both east and west of the village and not to the south. In any event that map does not accord with statute and national policy provisions relating to how proposals are to be shown on the Policies Map and Key Diagram. The Borough Council proposes instead to amend the Key Diagram to indicate that the village would be a Broad Location but without further identifying where land would be developed. The above reduction in total numbers would also create more flexibility for the allocation of sites. Should the Neighbourhood Plan not succeed in identifying suitable site allocations then it would fall to a review of the Local Plan to do so.

78. Landscape capacity assessments have recommended that sites around Lenham and especially to the east have a low capacity for housing development. However such an assessment by its nature can only consider landscape character impacts within the identified areas and not the many other considerations that need to be weighed in the planning balance.
79. The Countryside and Rights of Way Act requires that due regard be had to the purposes of the AONB designation when considering development that may affect an AONB. That would include relevant development within the setting of the AONB as Lenham is. However it does not constitute an overriding duty to conserve or enhance all views to and from the AONB without regard to other considerations.
80. Evidence at the examination was that the main concern relates to views to and from the scarp and the Pilgrims Way long distance footpath which passes close to a memorial cross on the hillside. The outward views from here already include the built up area of Lenham, where not screened by trees, and especially the prominent industrial estate to the east of the village. There are also wide and distant views beyond the village as well as across the open foreground within the AONB which would be retained.
81. In that context the identified low landscape capacity east of Lenham means that more housing development can be expected to result in some change to landscape character adjacent to the village and some adverse effect on outward views from the AONB - albeit mitigated by the design and landscaping of the development. Some views towards the AONB and towards the memorial cross may also be affected. However views are

already restricted in places by buildings and vegetation and important viewpoints can be protected in the design and layout of schemes. Neither does the ability to see development from within the AONB necessarily harm the purposes of the AONB.

82. Whereas the final siting of the Broad Location development would be a matter for the Neighbourhood Plan, or by default a Local Plan Review, the submitted Local Plan also includes proposed housing allocations at H1(42) Tanyard Farm and H1(43) Glebe Gardens.
83. The small H1(43) site is already the subject of planning permission and does not require further consideration here.
84. The H1(42) site is separated from the AONB only by the A20 road and it straddles a right of way that leads from Old Ashford Road up to the memorial cross and the Pilgrims Way and from which long views are available. Parts of the site have also been affected by ground water and surface water flows during periods of high rainfall. Whilst the H1(42) site would be visible from the AONB, just as the adjacent industrial estate is already visible, there is scope for mitigation in the design and landscaping of the development to soften the edge of the built development. The site is sufficiently distant from the Pilgrims Way and set at a lower level such that its impact on the wider available views would be limited. Views towards the AONB and the memorial cross would continue to be available from the right of way that leads through the site and development can be set back from this route to allow broader views. Whilst there would remain some residual effects on views to and from the AONB I consider that these would be outweighed by the benefits of early provision of needed market and affordable housing in a sustainable settlement. The ground water and surface water issues would require detailed assessment through the development management process but there is likely to be a suitable engineering solution.

**The H2(3) Lenham Broad Location should be reduced from 1500 to 1000 dwellings to be delivered between 2021 and 2031. That would be a more realistic delivery rate. The reduced total development within the Plan period would also allow more flexibility for its location. The allocations would be determined by a Neighbourhood Plan or, by default, in a Local Plan review before April 2021. The plans would need to address any infrastructure constraints. An additional 150 dwellings which would have been part of the Broad**

**Location will now come forward before 2021 as commitments following appeal decisions at Ham Lane and the Old Goods Yard.**

**The H1(42) Tanyard Farm allocation should also be retained in the Local Plan to support housing delivery before 2021.**

#### Other Rural Service Centres

85. Lenham is one of 5 Rural Service centres identified in the submitted Local Plan as second tier locations for growth. Harrietsham is close to Lenham and shares some of its characteristics.
86. Headcorn, Staplehurst and Marden all lie on the same railway line south of Maidstone with particularly good rail connections to west Kent and London that would make them attractive for those migrating from those areas (including commuters and retirees) and offset their relatively weaker road links. There are also some local employment opportunities.

**The rural service centres are appropriately identified as second tier settlements for development.**

#### Large Villages

87. The third tier settlements are the large villages of Coxheath, Sutton Valence Yalding, Boughton Monchelsea and Eythorne Street (Hollingbourne).
88. Coxheath has a wide range of services and shares many characteristics with the Rural Service Centres. Whilst it lacks a railway station it is close to Maidstone.
89. Sutton Valence and Yalding have fewer services and are more constrained by heritage, landscape and (at Yalding) floodrisk.
90. The main mixed development proposed at the Syngenta site at Yalding would make use of a brownfield site and is much closer to the railway station than the main village. However its allocation would not be sound as the housing development needed to make the development viable would conflict with the floodrisk and there is a lack of evidence that the risk could be adequately mitigated without worsening flood risk elsewhere in an area that has experienced severe local flooding and where the Environment Agency has

been unable to devise the means to prevent repeated flooding. The allocation should be deleted as it would not be effective in delivering the allocated development but to make best use of this derelict site it should be replaced by a policy that positively seeks alternative uses that would be compatible with the site's Zone 3a flood status.

91. Only one other housing allocation is proposed at either Sutton Valence or Yalding. These should be retained to provide the limited housing growth identified for these villages. The Sutton Valence allocation already has planning permission. In each case there is the opportunity for an emerging neighbourhood plan to identify the additional smaller sites which the parish councils have indicated that they would prefer. However once the Local Plan is in place with an identified housing supply these and other villages will be in a stronger position to resist unallocated development outside the settlement boundaries except where it would accord with other Local Plan policies such as that to provide affordable housing to meet local needs.
92. Traffic issues relating to Boughton Lane affect some of the Boughton Monchelsea allocations and are addressed above.

**The large villages are appropriately identified and the amount of development is suitably related to the existing services and facilities which they possess. However due to floodrisk the RMX1(4) Syngenta site at Yalding should be deleted as an allocation for housing or specified employment use. The H1(53) Boughton Lane housing allocation at Boughton Monchelsea should also be deleted for traffic impact reasons.**

#### Windfall

93. The Borough Council has provided suitable evidence to support its estimate of the contribution to housing supply of windfall development on brownfield sites. It has reasonably excluded a windfall allowance for the early years of the plan as this would risk double counting with existing commitments. It has also reasonably concluded that the number of anticipated windfalls should be reduced in the middle years of the plan period as many sites have already been identified through the SHEDLAA and allocation processes. Whilst a higher annual windfall figure is indicated for the final 5 years of the plan period, that would need to be similarly adjusted in a plan review as further sites are identified and allocated.

**The windfall allowance as amended has been adequately justified.**

## The Housing Trajectory and the 5 year Housing land Supply

94. The revised housing need figure of 17,660 dwellings over the plan period would equate to 883 dwellings each year on average. As delivery in the first 5 years of the plan from 2011 to 2016 was at a lower rate there is an existing shortfall which needs to be made up. The national Planning Practice Guidance advises that, where possible, this backlog should be made up in the first 5 years of the plan period (also known as the Sedgefield Method). The trajectory seeks to reflect this.
95. The trajectory also takes account of the 5% buffer sought by paragraph 47 of the National Planning Policy Framework whereby supply is brought forward from later in the plan period. Some have argued for the application of a higher 20% buffer on the basis of alleged persistent under delivery of housing in the past. I disagree. Past delivery overall has exceeded the previous housing targets set out in the South East Plan and it would be unreasonable to apply higher housing need figures retrospectively that were only identified as recently as 2014.
96. Nevertheless, the combination of: a much higher housing need figure than the previous housing target; the Sedgefield method of addressing the backlog; and the 5% buffer together lead to a trajectory which oscillates from a low rate of delivery against currently assessed needs to a very high and possibly unachievable rate in the early years of the remaining plan period before reverting to a low rate. The latter low rate is exacerbated by a heavy and unrealistic reliance on high rates of delivery from 2 Broad Location sites. There is also some evidence of likely slippage in the delivery of some allocated sites early in the plan period.
97. There is a strong case for seeking a smoother and more realistic rate of delivery over the plan period. That would also provide more regular local employment in construction to accompany the uplift in housing provision. Such a smoothing of the trajectory would be most readily achieved by addressing the existing backlog over a 10 year period from April 2016 rather than over 5 years as currently proposed. However additional allocations on a greater variety of sites in the latter part of the plan period through the first plan review would also boost delivery then and especially in the final 5 years, avoiding overall under-provision against the assessed needs across the plan



period. If sufficient sites cannot be identified then the matter would need to be pursued through the duty to cooperate.

98. The recommended smoothing of the trajectory should strengthen the 5 year supply position as at 1 April 2016. That many additional planning permissions have been granted since that date indicates that the 5 year supply should also be strong at 1 April 2017 and in subsequent years.

**If the suggested changes to the allocations and broad locations are carried forward as main modification the housing trajectory would need to be amended pending any new allocations at the first review of the Local Plan. Spreading the existing backlog over the 10 years from 2016 to 2026 would allow for a more realistic rate of delivery of the allocations and provide steady employment in the construction industry as a contribution to the identified need for additional employment in the Borough.**

#### **Matter 4: Employment**

*Issue - Whether employment needs and existing supply have been appropriately assessed*

99. National Planning Practice Guidance advises that the assessment of economic development needs should relate to the functional economic market area. The Economic Sensitivity Testing and Employment Land forecast 2014 [Document ECON 001] concluded that it is reasonable to define the functional economic area of Maidstone as focussed on the immediately surrounding districts. However whilst that document refers to a selection of plans and proposals in the adjoining targets and some of their targets for jobs and housing growth, it acknowledges that plans and proposals are being revised or finalised and could be subject to change. The Document does not contain any overall assessment of employment needs or provision across the neighbouring districts and does not relate employment growth to planned housing growth across that area in the light of commuting patterns.
100. MBC has issued an Employment and Retail Topic Paper 2016 [Document SUB 003] as supporting evidence for the Local Plan's employment policies. It explains that the Local Plan anticipates the creation of 14,400 jobs by 2031 in accordance with the aims of the *Maidstone Economic Development Strategy (2011-2031)* (EDS) [Document ORD 005]. This figure is derived



from the *Economic Sensitivity Testing and Employment Land Forecast Final Report (February 2014)* [Document ECON 001].

101. The Economic Development Strategy indicates what sectors are relied upon to deliver that jobs growth.

Issue - Whether employment trends are appropriately taken into account when assessing housing needs.

Issue – What are the implications of the housing and employment targets for cross-border commuting patterns

102. The Economic Development Strategy acknowledges that Maidstone Borough has moved from being a slight net importer of labour to a net exporter. Information provided to the examination on commuting patterns in the 2011 census indicates that the net daily outward flow from Maidstone to London is 5,834 and that there is a net daily inflow to Maidstone from other mid and west Kent authority areas of 3,844 persons. The strongest net daily flows include 2,008 persons from Maidstone to Tonbridge and Malling and 3,413 persons from Medway to Maidstone.

103. Table 33 of the *Strategic Housing Market Assessment* [Document HOU 002] acknowledges that employment growth in Maidstone could partly support housing demand in the Medway Towns, Tonbridge and Malling, Tunbridge Wells, Maidstone and Swale. It might have also referred to Ashford from which there is also a significant net daily inflow of commuters.

104. Table 33 sets out what was then known about Housing and Employment Growth policies in the nearby authorities (including Ashford). However 3 of the 6 authorities then had no employment growth target and the only recent targets for the period ending in 2031 were then in the Swale Draft Local Plan of 2013. The Swale housing target has since been increased. Some updated information was provided in the Borough Council's written statement for Session 8.

105. In the examination hearings attention has been drawn to how the Maidstone housing target may relate to the employment target. It has been pointed out that the 14,400 jobs target is acknowledged as ambitious and yet at a current estimated employment rate of 1.3 jobs per household it may fall short of the numbers of employed persons that might be accommodated by the new dwellings proposed in the Local Plan.

106. Relevant factors could include changes in average household size including more single person households, and an increase in the proportion of retired persons and households no longer participating in the labour market. These trends would affect existing as well as new households.
107. What remains unclear is what impact cross-border commuting between Maidstone and neighbouring areas (and London) would have on job provision.
108. There is evidence that where the adjoining authorities have assessed their employment needs they consider that they can meet their needs within their own areas and in most cases are proposing new employment allocations to that end. However there are apparent disparities between the authorities concerning the number of jobs and the amount of employment land that is being proposed relative to the intended growth in housing in each area. It is also unclear how each authority is taking account of the effect of net cross-border commuting flows. Where flows are currently in equilibrium and likely to remain so this may not matter. However where an authority is planning for particularly high or low rates of job growth relative to the anticipated change in population or housing this could result in sharp changes in commuting patterns.

**It is necessary to establish both whether there is likely to be sufficient land overall to accommodate the employment needs and also what effect there may be on travel patterns, including net flows to London or elsewhere.**

**An assessment is therefore needed which updates the position on job targets and employment land provision in Maidstone and the adjoining Boroughs/Districts within the same economic area relative to the anticipated housing and population growth in those areas.**

*Issue – Whether the employment allocations are justified and consistent with national policy and whether they would be effective in terms of deliverability*

109. Only part of the growth in employment would be in B class business floorspace amounting to 3,732 jobs with a further 4,200 jobs at the medical

campus being developed at Junction 7. The Employment and Retail Topic Paper [Document SUB 003] and Proposed Change PC/2 corrected the employment floorspace requirements set out in the submitted Local Plan at Table 4.4 and identified a need for 24,000sqm of B1a office floorspace, 6,500sqm of warehouse floorspace and -15,600sqm of industrial floorspace.

- 110.EMP1(5) Woodcut Farm is identified as a strategic site that is critical to address a qualitative and quantitative need for high quality business space, notwithstanding that it is acknowledged that it would have adverse landscape impacts and that one scheme for the site has been refused planning permission mainly on landscape grounds.
- 111.The Employment and Retail Topic Paper suggested that the identified need for 24,000sqm of office floorspace would be met with 16,000sqm at Woodcut Farm and 8,000sqm at Mote Road in Maidstone Town Centre. However there are evident viability issues with both sites such that neither site is now expected by the Council to deliver this much space. Provision may be as little as half the figure of 24,000sqm. The suggested identification of 3,000sqm of office floorspace at Maidstone East would only partially make up the anticipated shortfall.
- 112.The Syngenta site at Yalding has been identified for 8,640sqm of business space. However floodrisk issues and the necessary deletion of a housing allocation that would have assisted development viability also mean that site is unlikely to be delivered in that form.

**Unless alternative provision is identified there is likely to be a shortfall in the delivery of office floorspace against the identified requirement. Alternative provision may involve mixing development with more lucrative land uses in the town centre.**

**In the town centre, reduced on-site parking requirements could improve viability where alternative parking and public transport are available.**

**Consideration should be given to safeguarding part of Woodcut Farm or other sites suitable for office development from other uses for a**

**period pending a recovery of office development values later in the plan period.**

### **Matter 5: Transport and Air Quality**

*Issue: Whether the Local Plan is consistent with national policy in relation to air quality impacts.*

113.Paragraph 110 of the National Planning Policy Framework provides amongst other things that in preparing to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment.

114.An issue that has come to the fore during the Examination is that of air quality, especially in relation to road traffic emissions and their associated health impacts. This follows the intended quashing by the High Court of the National Air Quality Plan (AQP) and the direction that the Government should urgently replace it with a new plan by July 2017.

115.Maidstone town is designated as an Air Quality Management Area on the basis that air quality targets for Nitrogen Oxide emissions exceed limits set by an EU Directive and national regulations at a series of locations within the town. These locations include The Wheatsheaf junction and also Upper Stone Street which is part of the town centre gyratory and carries traffic towards the A274, A229(S), A20(E) and B2010.

116.An Air Quality Action Plan adopted for Maidstone in 2010 is referred to in the national AQP but has not yet succeeded in bringing emissions within the limits.

117.Whilst some have argued that the air quality issue warrants a moratorium on new development in the town, that would not solve the existing problem and would not be consistent with national policy. A solution is needed that both addresses the existing air quality problem and allows that the needs for housing and other development can still be met whilst minimising pollution.

118.The amount of emissions from road vehicles is affected by the number of vehicles and also by the means of propulsion. The number of vehicles is unusually high in Maidstone because of high levels of car use relative to

other modes such as public transport, walking and cycling. The proportion of diesel vehicles has also grown in recent years and is likely to have arrested what was previously a downward trend in emissions. A switch away from older diesel vehicles towards electric vehicles as range improves and costs reduce and might help. Heavy diesel vehicles such as lorries and buses also make a significant contribution to emissions although the introduction of low emission vehicles can achieve reductions. Moreover one bus can carry as many people as a large number of cars, resulting in less emissions overall. This further supports the need for a bus lane on Sutton Road to encourage modal shift in south east Maidstone, including by existing residents.

119. Even where they are physically possible, road capacity improvements may reduce congestion and pollution from stationary traffic but can also encourage more vehicle movements with their associated emissions.

120. The need to reduce emissions supports the aims of the Borough Council's Integrated Transport Strategy and the Walking and Cycling Strategy to encourage modal shift.

121. Additional measures are likely to be needed including the designation of low emission zones or clean air zones, additional bus priority, replacing or retrofitting existing buses to reduce emissions, encouraging the use of electric cars and electric bicycles by requiring charging places and storage provision at homes, and reviews of the amount of parking provision in the town centre and its costs relative to other travel modes, especially bus travel. The commitment in the Integrated Transport Strategy to increase long stay parking costs 50% by 2031 lacks sufficient urgency and is unlikely to prompt the necessary early shift to other transport modes that is needed to reduce congestion and improve air quality, particularly if bus and train fares rise at a similar or greater rate.

122. Park and Ride (or Park and Train) may also be part of the solution if it results in fewer vehicles entering the town centre and would be of most benefit to those travelling from locations outside Maidstone with poor public transport connections. However careful siting and pricing policies are needed if park and ride sites are not to encourage passenger transfer from service buses to cheaper park and ride services that depend on subsidy, especially if this would harm the frequency or viability of service buses.

123. That significant modal shift is possible is demonstrated by other towns in the south including Brighton, Poole and Oxford. Concentrating development in or adjacent to the town on high frequency bus routes and in those rural service centres with railway services as proposed in the Local Plan makes modal shift more likely to be achieved than if development were to be more dispersed or located in new settlements with fewer facilities or public transport services and which still relied heavily on access to Maidstone town by car for employment, services and facilities.

124. A land use plan like the Local Plan can only partially address the air quality issues. Other available measures include the emerging Low Emissions Strategy, the intended review of the Maidstone Air Quality Action Plan, and a review of the parking strategy. The national Air Quality Plan may propose other specific measures for local implementation.

**The need to address poor air quality within the Air Quality Management Area and especially at the exceedance locations would not justify a moratorium on development although it does emphasise the need for mitigation measures for individual developments. To achieve satisfactory air quality is likely to require a range of measures to address the existing problem whilst also allowing for necessary growth.**

*Issue - Whether the Local Plan is consistent with national policy for the avoidance of severe traffic impacts on the strategic road network resulting from development and is it supported by proportionate evidence*

125. Further modelling work has been undertaken during the examination to test the cumulative impacts of planned development in Maidstone and adjoining Boroughs on the strategic road network.

126. A Statement of Common Ground [Document ED 103] has been agreed between Highways England and Maidstone Borough Council which concludes in summary that proposed junction improvements at M20 junctions 5-8 can adequately mitigate development but that timely implementation and continued monitoring are necessary as well as the possibility of Plan B mitigation if the planning permissions that would provide mitigation are not implemented in a timely fashion. Changes to the Policies DM24 and ID1 are recommended in the Statement including the use of Section 278 agreements under the Highways Act 1980. Subject to these changes Highways England is content that its objections have been addressed.

**Severe traffic impacts on the strategic network are capable of avoidance through mitigation.**

**Matter 6: Monitoring and Plan Review**

127. During the examination, consideration has been given to when the Local Plan should be first reviewed and whether the timing of such a review should be adjusted to address particular issues that have arisen.

128. A commitment to an early plan review has been used elsewhere to deal with identified shortcomings in plans and to allow them to proceed to adoption. Advice by the Planning Advisory service in '*Early Reviews*' and *Local Plans* suggests that they should not be used to resolve matters critical to the Plan's strategy and that they are not a panacea for addressing the difficult issues.

129. In this case there are some issues which do need to be resolved before the plan is first adopted. However there are others, especially in relation to housing delivery at the end of the Local Plan period. These are less urgent because they do not impact on strategy in the first 5 years of the Local Plan. To delay the adoption of the Local Plan to resolve all of these matters would have other disbenefits including prolonged uncertainty about the 5 year housing supply position later in the plan period.

130. The submitted Local Plan indicated at paragraph 17.126 that a first review of the Local Plan '*will commence in 2022*'. A change proposed by the Borough Council (PC/59) would amend this to '*will commence by 2022*.' However there is no commitment to how quickly such a review would progress and no timetable for the necessary work. Moreover that would be too late to address the need to identify specific development site allocations in the Broad Locations (including any need to address a failure of the Lenham Neighbourhood Plan to make such allocations). A review would also be needed in association with any decision by Kent County Council to go ahead with the Leeds-Langley Relief Road. Additional allocations will also be needed for the latter part of the plan period to supplement supply from the Broad Locations in order to provide necessary choice and to offset a reduced rate of delivery from those sites.

**The Local Plan should include a policy commitment to a review with a target adoption date by April 2021. That review process would accordingly need to start much earlier. The plan could then be rolled forward by 5 years from 2031 to 2036.**

*Robert Mellor*

INSPECTOR



## **Schedule of Proposed Main Modifications to the Regulation 19 Maidstone Borough Local Plan**

### **March 2017**

The Main Modifications which are proposed to be made to the Regulation 19 version of the Maidstone Borough Local Plan (which was dated February 2016) are set out in the schedule below.

The schedule includes the proposed Main Modifications which at this stage the Local Plan Inspector, Mr Robert Mellor BSC DIPTRP DIPDBE DMS MRICS MRTPI, considers will be necessary in order for him to be able to find the Local Plan sound and legally compliant. The proposed Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan and they need to be subject to public consultation.

The public consultation on the proposed Main Modifications runs from Friday 31<sup>st</sup> March until **5pm** on Friday 19<sup>th</sup> May 2017.

All duly made representations on the proposed Main Modifications received by **5pm** on Friday 19<sup>th</sup> May 2017 will be sent to the Inspector for his consideration. Please note that representations must relate to the proposed Main Modifications Schedule and not to other, unchanged aspects of the Plan.

Text proposed to be deleted is shown as strikethrough, and new text is shown as italic and underlined. Each proposed Main Modification is referenced for ease, and also indicates its location in the submitted plan, a reference to its origin (PC/ ref) and a reason for the proposed Main Modification.

MM39	Policy EMP1( <del>54</del> ) Woodcut Farm, Ashford Road, Bearsted Supportin g text	Action 8.5	<p>Amend supporting text to Policy EMP1(<del>54</del>) as follows:</p> <p>15.2 There is a unique opportunity in the borough to provide a prestigious business park at Junction 8 of the M20 that is well connected to the motorway network and that can provide for a range of job needs up to 2031. <i><u>The Woodcut Farm site will meet the 'qualitative' need for a new, well serviced and well connected mixed use business park in the borough which can meet the anticipated demand for new offices, small business orientated space, stand-alone industrial and manufacturing space built for specific end users and smaller scale distribution businesses. This site will overcome this 'qualitative' gap in the borough's existing portfolio of employment sites and will thereby help to diversify the range of sites available to new and expanding businesses in the borough to help accommodate future demand. The key priority for the Woodcut Farm site is the delivery of new office/research &amp; development floorspace (B1a/b). The site will provide at least 10,000sqm of B1a/b floorspace, thereby contributing significantly towards the evidenced need for 24,600sqm of this type of floorspace by the end of the Plan period.</u></i> <del>Land at Woodcut Farm is allocated to provide for a mix of business uses comprising industrial, offices and distribution/logistics. High quality office development is sought, such as that required by company headquarters for example, providing complementary provision to the town centre. As the viability of office development may be challenging in the shorter term, land will be safeguarded specifically for B1a/b uses, and for no other purpose, pending the viability position improving in the later part of the Plan period. This approach will help ensure that the site delivers a genuine mixed B class use business park, which is what is required, rather than a logistics park or conventional industrial estate. Industrial (B2) and distribution (B8) uses are nonetheless appropriate as part of the mix of uses on the site and, in addition to the office requirement, the allocation will help deliver the quantative need for the 7,965sqm additional warehousing floorspace which is needed in the borough by 2031.</del></p> <p>15.9 The flatter area of the site, to the east of the stream, is better able to accommodate larger footprint buildings up to <del>10,000sqm</del> <i><u>5,000sqm</u></i> with heights restricted to a maximum of 12m. To the west of the stream the land rises and is suited to smaller footprint buildings <i><u>of up to 2,500sqm and up to 8m in height.</u></i> The siting, scale and detailed design of development within this area must also have particular regard to the setting of Woodcut Farmhouse (Grade II listed). <i><u>On the highest part of the site, as shown on the policies map, to the east of the Woodcut Farm complex, building footprints will be limited to 500sqm.</u></i></p>	Reason
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Policy EMP1(54) Woodcut Farm, Ashford Road, Bearsted:

Woodcut Farm, as shown on the policies map, is allocated for development for up to 49,000m<sup>2</sup> mixed employment floorspace (B1c; B2; B1a; B1b; B8). The site will deliver a genuine mix of B class uses in terms of type and range. Office type uses (B1a & b) will be a vital component of this mix and the site will provide at least 10,000sqm of B1a /B1b floorspace as an absolute minimum. In the event of a demand arising, an element of hi-tech and/or research and development (B1(b)) would be appropriate as part of the overall mix of B-class uses on the site. The mixed use employment, landscaping and infrastructure elements will be delivered in an integrated and co-ordinated manner that respect the site's visual and physical relationship with the Kent Downs AONB. Planning permission will be granted if the following criteria are met.

Design & layout

1. The proposals create a spacious parkland setting for development through the addition of substantial internal landscaping which will be sympathetic to the site's countryside context and which will help to break up the visual appearance of the development including parking areas in particular in views from the AONB including through the use of substantial tracts of planting extending into the body of the development to achieve clear visual separation between individual buildings and between parking areas; buildings will cover not more than 40% of the developed site area.

2. The development proposals will respect the topography of the site by minimising the need for site excavation.

~~3. Landscape buffers of at least 15m in width are established along the site's boundaries, to M20 and to Musket Lane, which will also to help secure the setting to Woodcut Farmhouse (Grade II listed) and the amenity of residential properties at Chestnuts and White Heath. Development will have a landscaped frontage to A20.~~

3. Landscape buffers of at least 35m in depth are established along the site's boundary to the M20 including a new native woodland shaw, at least 15m to Musket Lane, at least 25m to the A20 including a planted bund, and at least 30m along the western boundary, which will also to help secure the setting to Woodcut Farmhouse (Grade II listed) and the amenity of residential properties at Chestnuts and White Heath. Tracts of structural landscaping will extend into development areas of at least 15m in width.

4. An area of 9ha to the north and north west of Woodcut Farm is secured as an undeveloped landscape area in the form of open woodland including the addition of a landscape buffer of at least 30m along the eastern boundary. Future management of this area will be secured by means of legal agreement and maintained in perpetuity.

5. Larger footprint buildings will be accommodated in the field to the east of the stream up to a maximum unit size of ~~10,000sqm~~ 5,000sqm with building ridge heights not to exceed 12m. Units should be orientated end-on to predominant views to and from the AONB.

6. Development on the field to the west of the stream comprises smaller units of up to 2,500sqm footprint ~~with g.~~ Graded building heights that will take account of the site's topography with building ridge heights not to exceed 8m. On the highest part of the site to the east of the Woodcut Farm complex at and above the 55m contour line as shown on the policies map, building footprints will be limited to 500sqm. The siting, scale and detailed design of development must have regard to the preservation of Woodcut Farmhouse (Grade II) and its setting.

[additional criterion]

X. The development proposals are designed to limit their visual impact including through the use of curved roofs on buildings, non-reflective materials, sensitive colouring, green roofs and walls on smaller footprint buildings (500sqm and below), and sensitive lighting proposals. Buildings should include active frontage elements incorporating glazing, and address both the A20 and M20.

[additional criterion]

		<p><u>Y. To the east of the stream, land to accommodate a minimum of 7,500sqm of floorspace within Use Classes B1(a) and B1(b) will be provided. Land sufficient for at least 5,000sqm of this floorspace will be provided with vehicular access and all necessary services including drainage and electrical power supply to the boundary of the plot/s prior to the first occupation of any units falling within Use Classes B1(c), B2 or B8. The land which is provided for the minimum of 7,500sqm of B1(a) and B1(b) will be safeguarded from any other uses until April 2026 or until otherwise allocated through a Local Plan Review.</u></p> <p>[additional criterion]</p> <p><u>Z. To the west of the stream, land to accommodate a minimum of 2,500sqm of floorspace within Use Classes B1(a) and B1(b) will be provided. This land will be safeguarded from any other uses until April 2026 or until otherwise allocated through a Local Plan Review.</u></p> <p>Landscape and ecology</p> <p>7. The development proposals are designed to take into account the results of a landscape and visual impact assessment (LVIA) undertaken in accordance with the principles of current guidance. The assessment will specifically address the impact of development on views to and from the Kent Downs AONB escarpment. This will include environmental enhancements of the wider landscape beyond the allocation boundaries through financial contributions using the mechanism of a S106 agreement.</p> <p>8. The development proposals are designed to take account of the results of a phase 1 habitat survey and any species specific surveys that may as a result be necessary, together with any necessary mitigation and significant enhancement measures.</p> <p>Archaeology</p> <p>9. The proposals are designed to take account of the archaeological interest on the site as revealed through appropriate survey.</p> <p>Access</p> <p>10. Vehicular access to the site will be from A20 Ashford Road.</p> <p>Highways and transportation</p> <p>11. Improvements to capacity at the A20/Willington Street junction.</p> <p>12. Package of measures to provide bus stops, pedestrian refuges and improvements to the footway on the northern side of the A20 Ashford Road.</p> <p>13. Development will contribute, as proven necessary through a Transport Assessment, to improvements at the following junctions:</p> <ul style="list-style-type: none"> <li>i. the M20 Junction 8 (including the west-bound on-slip and merge);</li> <li>ii. the A20 Ashford Rd/M20 link road roundabout;</li> <li>iii. the A20 Ashford Rd/Penford Hill junction;</li> <li>iv. the A20 Ashford Rd/Eyhorne Street/Great Danes Hotel access; and</li> <li>v. the Willington Street/A20 Ashford Rd junction.</li> </ul> <p>14. Development will deliver a significant package of sustainable transport measures to secure access to the site by a range of sustainable modes, including the provision of a subsidised bus route, and must be supported by the implementation of a Travel Plan.</p>	
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			<p><u>Minerals safeguarding</u></p> <p><u>15. This site falls within the Minerals Safeguarding Areas as shown on the policies map and therefore development proposals will be required to undertake a minerals assessment to assess the viability and practicability of prior extraction of the minerals resource. The minerals assessment will comply with Policy DM7 of the Kent Minerals and Waste Local Plan (2013-2030) and any supplementary planning guidance produced by the Minerals Planning Authority in respect of minerals safeguarding."</u></p>	
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**VIA EMAIL**

26653/A3/SF/kf

21 March 2017

Dear Richard

**APP/U2235/W/16/3165998: LAND AT WOODCUT FARM, ASHFORD ROAD, MAIDSTONE**

As requested, I am pleased to outline the Appellant's position in relation to compliance with the recently prepared Proposed Modifications to Policy EMP1(5). The latest version of Policy EMP1(5) differs from the version that applied at the time of the determination of the planning application by Maidstone Borough Council ('MBC') on 6<sup>th</sup> July 2016. It also differs from the version that applied at the time of the submission of the planning appeal on 22<sup>nd</sup> December 2016.

Overall, it is the Appellant's intention to adhere as closely as possible to the additional requirements that have been introduced through the Proposed Modifications to Policy EMP1(5).

**Initial Proposed Modifications (November 2016)**

The Appellant's Statement of Case (Paragraph 5.8) and the draft Statement of Common Ground (Paragraphs 7.38-41) both make reference to the Proposed Modifications that were prepared by MBC in November 2016 in the context of the ongoing Local Plan Examination.

The main additional policy provisions, together with the Appellant's responses, are summarised in the following table:

<b>Criterion</b>	<b>Response</b>
<i>1. Mix of floorspace to include Class B1b</i>	The Building Areas Parameters Plan already includes Class B1b floorspace as part of the mix (Plots C1-2, D1-2).
<i>2. At least 7,500sqm of Class B1a/B1b floorspace</i>	<p>The Building Areas Parameters Plan already includes 7,864sqm of Class B1a/B1b floorspace (Plots C1-2 and D1-2).</p> <p>In addition, it is expected that ancillary office floorspace would be provided within the larger buildings (Plots A1-9 and B1-2).</p>



Criterion	Response
<i>3. Landscape buffers of 35m adjacent to M20, 15m to Musket Lane, 25m to A20 and 30m to western boundary</i>	<p>The Landscape Parameters Plan meets the criterion. Along the length of some of the site boundary, the proposed landscape buffers would be even wider than the distances to which the criterion makes reference.</p> <p>The final details of the landscape buffers would be secured by planning condition/subsequent reserved matters application.</p>
<i>4. Maximum unit size of 5,000sqm to the east of the stream</i>	<p>The Building Areas Parameters Plan exceeds the threshold for Plots B1-2. However, in order to resolve this potential discrepancy, the draft Statement of Common Ground makes clear that the Appellant is prepared to agree to the maximum unit size threshold for Plots B1-2.</p> <p>The draft Statement of Common Ground appends a revised Building Areas Parameters Plan. This plan subdivides Plots B1-2 into Plots B1-4. It accords with the criterion.</p>
<i>5. Maximum unit size of 2,500sqm to the west of the stream</i>	<p>The Building Areas Parameters Plan exceeds the threshold for Plots A6-9. However, in order to resolve this potential discrepancy, the draft Statement of Common Ground makes clear that the Appellant is prepared to agree to the maximum unit size threshold for Plots A6-9.</p> <p>The draft Statement of Common Ground appends a revised Building Areas Parameters Plan. This plan subdivides Plots A6-9 into Plots A6-11. It accords with the criterion.</p>
<i>6. Maximum building footprint of 500sqm above the 55mAOD contour line on the highest part of the site</i>	<p>The Building Areas Parameters Plan does not propose any complete buildings above the 55mAOD contour on the highest part of the site (north western corner).</p> <p>Only a small corner of Plot A8 is proposed in this location. Furthermore, the Building Heights Parameters Plan confirms that the proposed ground level of this plot, at 52.60mAOD, would be less than 55mAOD.</p>
<i>7. Use of curved roofs, non-reflective materials, sensitive colouring, green roofs and walls on smaller footprint buildings, sensitive lighting, active frontage elements</i>	<p>Layout, scale and appearance are reserved matters.</p> <p>The final design details would be managed through a reserved matters application.</p>
<i>8. Land to accommodate 3,300sqm Class B1a/B1b to be provided with access and services prior to first occupation of Class B1c/B2/B8 units</i>	<p>Compliance with the criterion would be secured through a S106 obligation (see also Criterion 11 below).</p>



### Further Proposed Modifications (March 2017)

It is understood that further Proposed Modifications were reported to MBC's Strategic Planning, Sustainability and Transportation Committee on 14<sup>th</sup> March.

The Appellant's responses to the further policy provisions are summarised in the following table:

Criterion	Response
9. At least 10,000sqm of Class B1a/B1b floorspace	<p>The Building Areas Parameters Plan includes 7,864sqm of Class B1a/B1b floorspace (Plots C1-2 and D1-2), which is a shortfall of 2,136sqm.</p> <p>In addition, it is expected that ancillary office floorspace would be provided within the larger buildings (Plots A1-9 and B1-2).</p> <p>In order to resolve the potential discrepancy, compliance with the criterion would be secured through an additional S106 obligation. The S106 obligation would secure the following measures:</p> <ol style="list-style-type: none"> <li>Notwithstanding the previously submitted Parameter Plans, the area of Plots A1-2 would be excluded from the proposed development. As a consequence of this change, reserved matters applications could not be submitted for Class B8/B1c development in the area of Plots A1-2 pursuant to the current proposed development;</li> <li>The Appellant would commit to submitting a new planning application for at least 2,500sqm of Class B1a/B1b floorspace, to be located within the excluded area, within a period to be agreed with MBC and use reasonable endeavours to obtain planning permission;</li> <li>The excluded area would be safeguarded from any other uses until April 2026, or until otherwise allocated through a Local Plan Review, or until alternative provision for at least 2,500sqm of Class B1a/B1b floorspace is secured on an alternative plot in the vicinity of the excluded area.</li> </ol> <p>It should be noted that, in assessment terms, the principle of increasing the amount of Class B1a/B1b floorspace has been previously considered. For example the Environmental Assessment Addendum (including the Transport Assessment) takes account of a significant element of office provision at Waterside Park as a cumulative scheme, which is no longer the subject of a planning application (Paragraphs A2.30-32 and A10.121-124).</p>



Criterion	Response
<i>10. At least 7,500sqm of Class B1a/B1b floorspace to be provided to the east of the stream</i>	The Building Areas Parameters Plan already includes 7,864sqm of Class B1a/B1b floorspace (Plots C1-2 and D1-2) to the east of the stream.  In addition, it is expected that ancillary office floorspace would be provided within the larger buildings (Plots A1-9 and B1-2).
<i>11. Land to accommodate 5,000sqm Class B1a/B1b to be provided with access and services prior to first occupation of Class B1c/B2/B8 units</i>	Compliance with the criterion would be secured through a S106 obligation.
<i>12. Land for the 7,500sqm of Class B1a/B1b floorspace to be safeguarded from any other uses until April 2026 or until otherwise allocated through a Local Plan Review</i>	Compliance with the criterion would be secured through a S106 obligation.
<i>13. At least 2,500sqm of Class B1a/B1b floorspace to be provided to the west of the stream</i>	Compliance with the criterion would be secured through a S106 obligation, as detailed above at Criterion 9.
<i>14. Land for the 2,500sqm of Class B1a/B1b floorspace to be safeguarded from any other uses until April 2026 or until otherwise allocated through a Local Plan Review</i>	Compliance with the criterion would be secured through a S106 obligation, as detailed above at Criterion 9.
<i>15. Minerals assessment to assess the viability and practicability of prior extraction of minerals resource</i>	Compliance with the criterion would be secured through a planning condition.

### Compliance with Procedural Guidance

The Planning Inspectorate's 'Planning Appeals Procedural Guide' confirms that, in instances where amendments are made during the appeals process, the Inspector will normally take account of the Wheatcroft Principles when deciding if the proposals can be formally amended (Paragraph M2.2).

The Wheatcroft Principles establish that the main, but not the only, criterion on which judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.

In this instance, it is considered that the responses that have been provided above would fully accord with the Wheatcroft Principles, for the following reasons:

- The proposed development already accords with the vast majority of the criteria that have been added by MBC to Policy EMP1(5);
- In response to Criteria 4 and 5, reference is made to a revised Building Areas Parameters Plan. It is considered that consideration of the revised Building Areas Parameters Plan would accord with the Wheatcroft Principles because the changes would be minor and would not prejudice anyone involved in the appeal. In particular, the change would not affect the overall amount or location of the proposed floorspace. Moreover, the change would not affect the conclusions of the Environmental Assessment Addendum, including the Landscape and Visual Assessment which has already assessed the 'worst case' scenario (Chapter A7);



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- In response to Criterion 9, reference is made to an additional S106 obligation, which excludes the area of Plots A1-2 from the proposed development and provides for a further planning application for Class B1a/B1b floorspace within this area alongside future safeguarding of the land. It is considered that this response would accord with the Wheatcroft Principles, because the further planning application would be subject to statutory consultation and therefore would not prejudice anyone involved in the appeal;
- In particular, it should be noted that the proposed amendments result in a cutting back of the scale of development to be considered on appeal from that which was originally considered by MBC. It has long been established that this may be achieved via the Wheatcroft principles since a cutting back could only very rarely result in any prejudice to a third party. In the present case, it is very difficult indeed to see how there could be any prejudice to a third party as a result of the amendments proposed.

It is acknowledged that any 'appeal stage' amendments agreed between the Appellant and MBC would be subject to a decision by the Inspector and any references to amended plans in the Statement of Common Ground would be made on that understanding.

I trust that these details will be of assistance and please do not hesitate to let me know should you require any additional details at this stage.

Yours sincerely



**SIMON FLISHER**  
Director

# Agenda Item 17

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 27<sup>th</sup> April 2017**

### **APPEAL DECISIONS:**

**1. 16/504031**

Outline - erection of one detached dwelling (with access to be considered in detail and all other matters reserved for future consideration).

**APPEAL: Dismissed**

Land Adj. Woodside, Thurnham Lane  
Thurnham, Kent, ME14 4PL

(Delegated)

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**2. 13/1456**

Ground based photovoltaic solar farm, access, associated works and grid connection.

**APPEAL: Dismissed**

Great Pagehurst Farm, Pagehurst Road,  
Staplehurst, Maidstone, Kent, TN12 0JD

(Delegated)

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**3. 16/503402**

Erection of one two storey five bedroom dwelling and one single storey two bedroom dwelling with new access onto Queen's Avenue.

**APPEAL: Dismissed**

Land North Of 335 Queens Road, Maidstone,  
Kent, ME16 0ET

(Delegated)

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**3. 16/502527**

Outline application for the demolition of existing buildings and the construction of four detached dwellings (Access to be considered at this stage and all other matters reserved for future consideration)

**APPEAL: Dismissed**

Beech Depot Sheephurst Lane, Marden  
Kent

(Delegated)