

ADJOURNED PLANNING COMMITTEE MEETING

Date: Thursday 4 January 2018
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Boughton, Clark, Cox, English (Chairman), Harwood, B Mortimer, Munford, Powell, Prendergast, Round (Vice-Chairman), Spooner, Mrs Stockell and Vizzard

<u>AGENDA</u>	<u>Page No.</u>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Notification of Visiting Members	
4. Items withdrawn from the Agenda	
5. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting	
6. Disclosures by Members and Officers	
7. Disclosures of lobbying	
8. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
9. 17/502714 - Caravan 2, Hawthorn Farm, Pye Corner, Ulcombe, Kent	1 - 13
10. 17/503401 - Catharos Lithos, Yelsted Road, Yelsted, Sittingbourne, Kent	14 - 25
11. 17/504314 - Land Rear Of 161 Heath Road, Coxheath, Kent	26 - 44
12. Appeal Decisions	45
13. Chairman's Announcements	

Issued on 20 December 2017

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

PLEASE NOTE

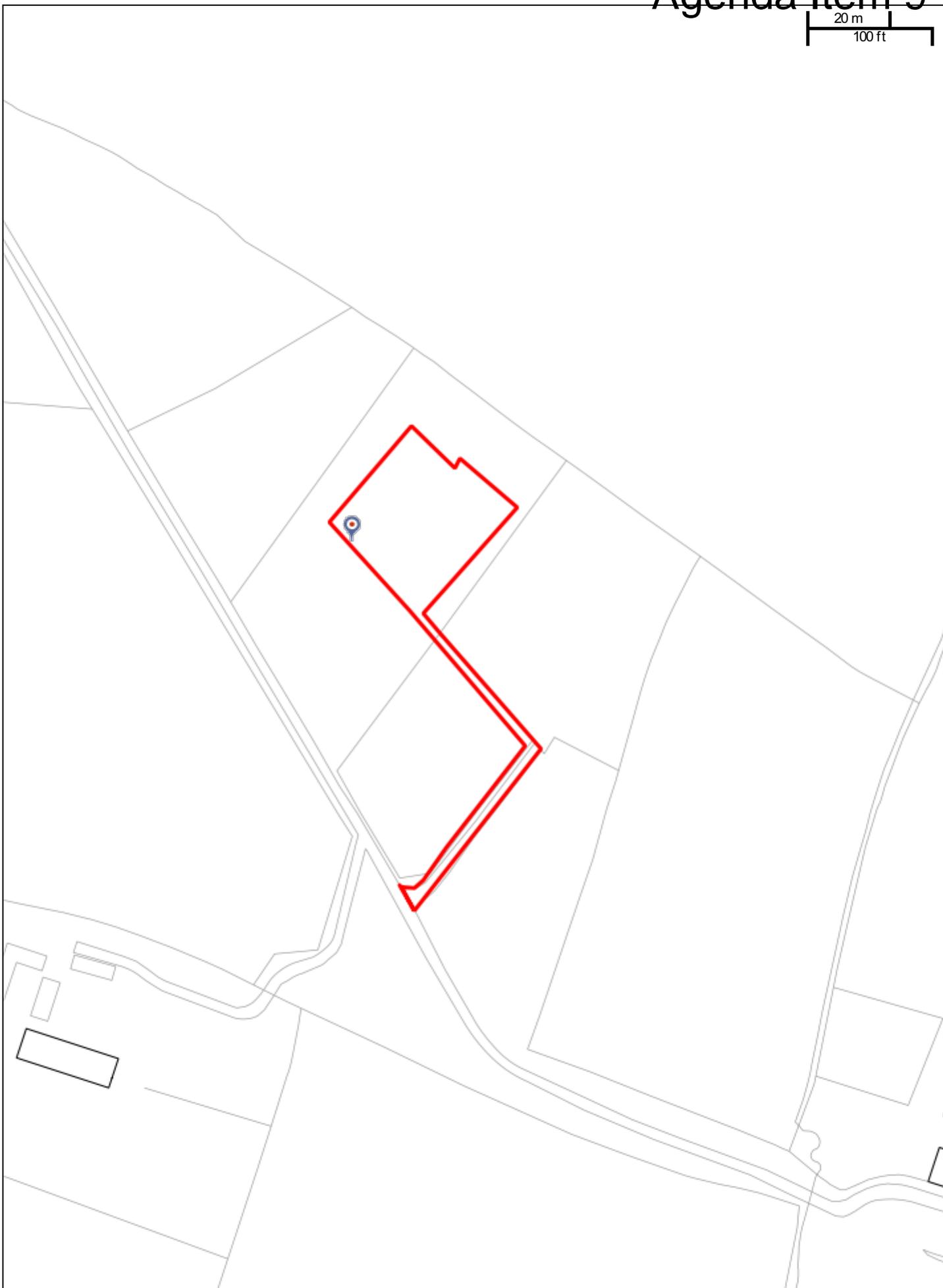
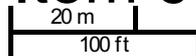
The order in which items are taken at the meeting may be subject to change.

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.

ALTERNATIVE FORMATS

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 01622 602030 or committeeservices@maidstone.gov.uk**. To find out more about the work of the Committee, please visit www.maidstone.gov.uk



17/502714 - Caravan 2 Hawthorn Farm

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REPORT SUMMARY

19th December 2017

REFERENCE NO – 17/502714/FULL			
APPLICATION PROPOSAL: Change of use of land to create two additional plots adjacent to an existing Gypsy site, for the accommodation of two Gypsy Traveler families. Each plot to contain one static caravan, one touring caravan, a septic tank, parking for two vehicles and associated hardstanding.			
ADDRESS: Caravan 2, Hawthorn Farm, Pye Corner, Ulcombe, Kent ME17 1EF			
RECOMMENDATION: GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed change of use of the land, subject to imposition of conditions as herein recommended, is considered to comply with the policies of the Development Plan (Maidstone Local Plan 2016), and the provisions of the NPPF and there are no overriding material planning considerations justifying a refusal of permission.			
REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to the views of Ulcombe Parish Council who has requested that the application be determined by Committee.			
WARD Headcorn	PARISH/TOWN COUNCIL Ulcombe Parish Council	APPLICANT – Mrs B Cash AGENT – Joseph Jones, BFSGC	
DECISION DUE DATE (Extended) 31.10.2017.	PUBLICITY EXPIRY DATE 22/06/2017	OFFICER SITE VISIT DATE 14/07/2017	
App No	Proposal	Decision	Date
14/504606/FULL	Change of use of land to create two additional plots for the accommodation of gypsies. Each plot to contain, one static caravan, a septic tank, parking for two vehicles and associated hardstanding.	Refused	11/7/16
<i>(1) By virtue of the lack of sufficient information submitted, it is not possible to adequately assess the impact that the proposal would have upon protected species and their habitats within the application site. The application thereby fails to comply with central government planning policy as set out in section 11 of the National Planning Policy Framework 2012 and Circular 06/2005.</i>			
Adjoining site for Hawthorn Farm			
MA/09/0208	Change of use to Gypsy caravan site to include 2 mobile homes, 2 touring caravans, 2 utility blocks and 2 stables and tack-room	Permitted	18/8/10

MAIN REPORT

The application was withdrawn from the 17th October 2017 Committee agenda to seek clarification regarding the Gypsy Status of the proposed occupiers. The earlier report set out that the application was not for specific occupiers, whereas the application does include these details which are now considered in the report below.

1.0 DESCRIPTION OF SITE

- 1.1 The site is contained within a larger triangular shaped level field enclosure defined by mature native species hedgerows and located in the countryside approximately 1kilometre south of Ulcombe and 5km to the north of Headcorn.

- 1.2 The field enclosure contains 'Hawthorn Farm' an existing Gypsy and Traveller site. The field is accessed via an unmade track, which serves other properties including Roydon Farm and other G&T sites and extends to Kingsnood Farm and Kingsnood Oast some 150m to the south-east. The access track joins the public highway at Eastwood Road, an unclassified county road, 400m to the north-west. The track is also designated as a public footpath.
- 1.3 The site and its environs have been designated as a Landscape of Local Value (LLV) within the Local Plan. The site is not subject to national landscape designation.
- 1.4 Hawthorn Farm has been allocated as a Gypsy and Traveller site for a total of 5 pitches in accordance with Policy GT1(15) of the Maidstone Borough Local Plan (subject to certain landscaping requirements). This allocation includes the existing 3 authorised pitches at Hawthorn Farm. The allocation site is separate from the current proposal site.

2.0 PROPOSAL

- 2.1 This application seeks full planning permission for a change of use of land to use as a residential caravan site for 2 Gypsy families each with 2 caravans of which no more than one would be a static mobile home, a septic tank, parking for two vehicles and associated hard-standing.
- 2.2 The pitches would be located to the north-west of the existing Hawthorn Farm Gypsy and Traveller site and within the larger field enclosure. This would be outside but adjoining the site allocation area. Access would be via the existing site access which would be shared with the existing site occupant. The future occupants of the site have been identified as belonging to the Gypsy and Traveller community.
- 2.3 The application is supported by the following documents:
 - Ecology Statement
 - Health and Education Statement
 - Gypsy Status Declaration
 - Design and Access Statement
 - Kent Reptile and Amphibian Group Report (KRAG)

3.0 POLICY AND OTHER CONSIDERATIONS

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Maidstone Local Plan (2011-2031): Policies SS1, GT1(15), SP17, DM15
- Planning Policy for Traveller Sites 2015 (PPTS)
- Neighbourhood Plan: N/A

4.0 LOCAL REPRESENTATIONS

- 4.1 Ulcombe Parish Council has raised objection on the grounds that the application is contrary to MBC countryside policies, NPPF guidance and PPTS 2015. Refusal is recommended for the following reasons:
 - As MBC has a 5.6 year supply of traveller pitches there is now no need to expand this unsustainable and visually harmful site.

- The applicant is not nomadic, although of traveller descent, and has been resident in Hawthorn Farm for over 12 years and therefore does not fit the definition of "Gypsies and Travellers", contrary to the Planning Policy for Traveller Sites (PPTS) 2015.
- There is no regulated water and electricity supply.
- The effect of the proposal on protected species - The Ecology Survey is seriously at fault because there was no survey in late spring and summer.
- The effect of the proposal on the character and appearance of the countryside.
- The site is in open countryside and in the Low Weald Special Landscape Area and in a part of the countryside designated as Ulcombe Mixed Farmlands. It is also a Low Weald National Character Area, and sites like this need to be protected from harmful visual intrusion.
- The application conflicts with saved policy ENV34, which states that in the Low Weald, particular attention will be given to the protection and conservation of the character of the area and priority will be given to the landscape over other planning considerations.
- The immediate neighbours at Kingsnood overlook this site.
- Two extra mobile homes will increase noise, disturbance and a further loss of privacy and amenity for neighbours.
- The lane is not designed to take the current volume of traffic. There are already 15 mobile homes, 12 permitted tourers and 2 unauthorised tourers along this footpath, and it is already difficult to pass oncoming vehicles on this half mile stretch of track. The large number of mobile homes along this track dominate the nearest settled community of 3 houses at Kingsnood.
- The application is contrary to saved policy ENV28 'planning permission will not be given for development which harms the character and appearance of the area or the amenities of the surrounding occupiers'.
- Contrary to the application statement, the site is visible from the public footpath which runs along the length of the western boundary.
- The addition of another traveller site will aggravate the social cohesion in the village.
- The school has grown from 25% traveller children in 2013 to 85% traveller children in 2017 (the school's figure) and this has resulted in a loss of social cohesion between the settled and traveller communities, contrary to the intent of PPTS2015
- Ulcombe already has the highest percentage of traveller sites in Maidstone Borough for a small village. There are now 94 traveller pitches either in, or within a mile of, the Ulcombe Parish boundary. We hope this fact will persuade MBC to see the cumulative impact of what may on the surface appear to be only modest individual traveller applications.
- The site does not fulfil the definition of "sustainability" in policy DM16 in the Draft Local Plan. Ulcombe has no shops, no health centre and no recreational facilities. There are only 4 buses a day to Maidstone (8 miles away) with the last one at 1.32pm from the Ulcombe bus stop 1.5 miles away from this site. There are no buses to Headcorn (over 3 miles away). Headcorn has the nearest local services including the railway station, doctors and dentists, chemist, library, and shops etc, all of which are not accessible from Ulcombe on foot or by public transport.

4.2 One letter of objection has been received from a member of the public. The objector's comments can be summarised as follows:

- Already overlooked by existing site caravans during winter and without full screening and fencing between the site and our land this will be exacerbated.
- The shared track accessing the site is in a terrible state of repair and increased numbers on the site at Hawthorn Farm will aggravate the problem.
- The highway between Pye Corner and the Ulcombe - Headcorn road has deteriorated significantly in recent years due to increased usage.

- Already high number of refuse bins around collection days giving rise to health and rodent concerns and making access to and from the track more problematic.
- Further hard standing, fencing, buildings and caravans of no aesthetic merit will cause further erosion of what has been an attractive rural environment.
- We have had problems with dogs from the site chasing and disturbing our livestock and believe increased numbers on this site might lead to same.
- Concern that noise pollution would increase.

5.0 CONSULTATIONS

5.1 KCC Ecology

Due to the site being intensively managed KCC are satisfied that the submitted report provides a good understanding of the ecological interest of the site. No additional surveys are required but if planning permission is granted there is the opportunity to enhance the site for biodiversity and this can be secured by condition.

6.0 APPRAISAL

Policy Background

- 6.1 Policy SS1 is a spatial strategy policy for all of Maidstone Borough. The policy refers to a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTTSA) that sets the quantitative need for sites and the methodology for site delivery.
- 6.2 The site is within the Low Weald Landscape of Local Value (LLV), which Policy SP17 seeks to conserve and enhance these landscapes.
- 6.3 Local Plan Policy SP17 'The Countryside', follows the broad thrust of Policy ENV28 which it has replaced. The policy states that 'development proposals in the countryside will not be permitted unless they accord with other policies in the plan and they will not result in harm to the character and appearance of the area.'
- 6.4 Local Plan Policy DM15 is specific to gypsy development, allowing for development subject to compliance with certain criteria, which includes sustainability, landscape character, the cumulative effect of development, highway safety, flooding and ecology.
- 6.5 Policy GT1 establishes that allocated sites, will deliver a total of 41 pitches for Gypsy and Traveller accommodation; while Policy GT15 is specific to Hawthorn Farm and establishes that planning permission for 3 additional permanent pitches will be granted providing certain criteria are met. The policy states that the total site capacity is 5 pitches and that a landscaping scheme for the site is approved.
- 6.6 Issues of need are dealt with below, but in terms of broad principle Local Plan Policies and Central Government Guidance both permit Gypsy and Traveller sites to be located in the countryside as an exception to policies which otherwise seek to restrain development.

Need for Gypsy sites

- 6.7 Local Planning Authorities are required to set their own Local Plan targets for pitch provision in their area. In order to address this, Salford University were commissioned to carry out a Gypsy and Traveller and Travelling Show-people Accommodation

Assessment (GTAA) which was published in 2012 to cover the period October 2011 to March 2031.

- 6.8 The GTAA concluded the following need for pitches over the remaining Local Plan period:
Oct 2011 – March 2016 - 105 pitches
April 2016 – March 2021 - 25 pitches
April 2021 – March 2026 - 27 pitches
April 2026 – March 2031 - 30 pitches
- Total: Oct 2011 – March 2031 - 187 pitches
- 6.9 This, is the best current evidence of need, and forms the evidence base to the Local Plan, although it should be acknowledged that the GTAA preceded the August 2015 publication of the revised PPTS which redefines amongst other things, status qualifications, and as a result the accuracy (albeit not substantially) of the GTAA figures.
- 6.10 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan.
- 6.11 The GTAA predates publication of the revised PPTS, which sought to redefine the definition of Gypsies and Travellers. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the DLP. The GTAA had already asked those surveyed whether they had ceased to travel. The only recognised omission was whether those who had ceased to travel intended to resume travelling. The Inspector concluded that a new survey to address this would be unlikely to result in anything but small changes to the needs figures. The Inspector concluded that the needs evidence is adequate.

Supply of Gypsy Sites

- 6.12 Under the terms and conditions of The Housing Act (2004), accommodation for Gypsies and Travellers is a specific form of housing, which Councils have a duty to provide. Local Plan Policy DM15 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside.
- 6.13 Between the base date 01.10.2011 of the GTAA and 21.08.2017, a net total of 110 permanent pitches were provided. This means that a further 77 permanent pitches are required by 2031 to meet the objectively assessed need identified in the GTAA. The level of provision to 27.10.2017 can be broken down as follows:
- 107 permanent non-personal pitches
 - 21 permanent personal pitches
 - 3 temporary non personal pitches
 - 38 permanent personal pitches
- 6.14 The PPTS states that LPA's should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient to meet the 10 year period following Local Plan adoption (currently anticipated as late 2017). The Local Plan allocates a number of sites sufficient to provide 41 additional pitches by 2031. Although this figure does not satisfy identified demand there will be potential uplift through the provision of windfall sites yet to come forward. Accordingly it is considered that the objectively assessed need (OAN) for 187 pitches can realistically be achieved.

- 6.15 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight when considering the expediency of granting consent on a temporary basis. The Council's position is that it can demonstrate a 5.6 year supply of Gypsy and Traveller sites at the base date of 1st April 2016. However even where it can be demonstrated a 5 year supply of Gypsy and Traveller sites exists this does not preclude further gypsy and traveller sites being permitted if the provisions of policies SP17 and DM15 of the local plan are considered to be satisfied. Unidentified or 'windfall' Gypsy and Traveller sites also contribute to meeting the adopted targets for gypsy and traveller development within the Borough.

Gypsy status

- 6.16 Permission is sought on the basis that the proposed two pitches are required to satisfy an identified need for two Gypsy and Traveller families. The agent has submitted that the intended occupiers of the site qualify for Gypsy and Traveller status for planning purposes and has listed the following information of Horse Fairs, Drives and Event as evidence of events that the proposed occupiers attend:

- 6.17 List of Horse Fairs, Fairs and Events that the applicants attend, or have attended in recent years.

Not all the fairs listed will be attended every year, for various reasons. Some of the fairs will last for a number of days. These fairs need to be considered together with the fact that the family also continue to travel for work for a significant part of the year, individually and collectively with other members of the family. The applicants also travel to attend cultural events and family events throughout the year, to different sites and to various locations across the UK.

January - Peterborough Show Horse Fair

February - Red Lee Show Day, Shepperton

March - Smithfields Horse Mkt, Dublin, Ireland; St Patrick's Day Fair, Dartford, Kent; Merton Show (weekend) Faversham Showground

*April - Langley Fair, Slough Bucks **

May - Stow Horse Fair, Stow on the Wold, Oxon; Stepping Cob Show & Drive, Lingfield; Wickham Horse Fair, Wickham

June - Appleby Horse Fair, Appleby, Westmoreland; Epsom Derby, Epsom; Cambridge Midsummer Fair, Cambridge

July - Seamer Fair Scarborough; Darling Buds of May Fair, Pluckley, Kent; Big O Festival, Orpington; Chilli Farm Festival, Dover, Kent

August - Kent Horse Fair, Staplehurst; Hellingley Festival of Transport, East Sussex

September - Smithfields Horse Mkt, Dublin, Ireland; Dereham Horse Fair; Horsemonden, Kent; Barnet Horse Fair, North London; Kenilworth Horse Fair

October; Ballinasloe Horse Fair Ireland; Stow Fair, Cotswolds.

November; Battersea Horse Fair, London; Shaun Stanley Drive Pool, Fair & Drive in Dorset; Jimmy's Fair, Langley Horse Fair, Langley, Slough, SL3 8BQ*

(NB Jimmy's fair, organised by Jimmy Smith, took over from the Southall Horse Market which took place every Wednesday in a yard behind Southall High Street. The former market was organised by the Lovelace, family and was very popular with members of the Gypsy Traveller community. Now the Horse Market/Fair is held monthly throughout the year).

- 6.18 In addition the agent confirms that none of the family has ceased to travel, the family units and individuals travel separately and together in differing combinations, the family travel for work, traditional and cultural purposes and members of the family also travel with other families.

- 6.19 The families for which permission is sought are homeless and are related to the other Irish Traveller families, living in the area. That is one of the reasons that the site was chosen, as the families will be able to support each other in times of stress, need or illness.
- 6.20 Upon implementation the occupants of the site comprising the application site and Hawthorn Farm would include members of the Cash family. It is understood that the some of the residents of the additional pitches are those who previously lived on the consented site at the Hawthorns, but now require their own accommodation due to marriage and age.
- 6.21 It is submitted that there will be four children resident on site, two of pre-school age and two of early secondary school age. There is an obvious need for schooling and a structured family life.
- 6.22 Based on the evidence available it can be reasonably concluded that the intended occupants are of Gypsy heritage and are from the travelling community. A condition is recommended to ensure that the site shall not be used as a caravan site by any persons other than Gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Visual/Landscape Impact

- 6.23 The larger triangular shaped field is bordered by mature hedgerows which provide effective screening except during the winter months when foliage dies back and it can be glimpsed from the public footpath, particularly at the site entrance. The opportunity exists for site visibility to be addressed in the long term by provision of a robust screen of fast growing native species landscape planting, secured through planning condition. Such landscaping would supplement existing landscaping in line with policy DM15. Although there would be an impact on visual amenity in the short term, such impact would be localised, would be seen in the context of neighbouring Gypsy and Traveller development and would be insufficient to warrant refusal of planning permission.
- 6.24 Policies SP17 and DM15 of the Local Plan are particularly relevant in this context. Policy DM15 states that planning permission for Gypsy and Traveller development will be granted if the proposal would not result in inappropriate harm to the landscape or rural character of the area. The site has been located so as to have minimal impact on its surroundings. It is considered that the proposal complies with the criteria set out in Policies SP17 and DM15.
- 6.25 The Parish Council has drawn attention to the Low Weald Special Landscape Area (SLA) setting and the need to protect such designations from harmful visual intrusion. The SLA designation has now been superseded; however the site does remain within the LLV. In this instance the site is reasonably well screened from public vantage points within the adjoining PROW and providing existing natural screening is reinforced in accordance with the provisions of DM15 this will ensure that the development will become, with time, better assimilated into its surroundings and reduce perceived harm to the character of the surrounding countryside. In addition Policy GT15 related to the allocated site provision, requires reinforced landscape screening to certain areas of the 'larger' field enclosure site. A landscape condition in respect of the current application would satisfactorily address all concerns pertaining to site development. As such harm to the Low Weald would not be unacceptable.

Highways

- 6.26 There are no highway issues as an existing access is to be used. Although the track running from the unclassified county road also benefits from footpath status, the track is also subject to vehicular rights of access.

Cumulative Impacts:

- 6.27 The site lies in close proximity to several existing Gypsy and Traveller sites. In accordance with Policy GT1 (15) Hawthorn Farm has been allocated a total of 5 pitches, to include the 2 existing pitches. A further allocation for a single additional pitch at Neverend Lodge, Pye Corner, has been made in accordance with Policy GT1 (16) on land to the west of the site accessed from Eastwood Road. The Parish Council has expressed concern that although such applications viewed in isolation may seem reasonable, the cumulative impact of Gypsy and Traveller development is in serious danger of undermining social cohesion within the resident community, and they have provided figures demonstrating the extent to which local schools now predominately cater for the Gypsy and Traveller community.
- 6.28 The NPPF and PPTS 2015 provides some guidance in respect of cumulative impact. The Government's aim is to reduce tension between the settled and travelling communities and in order to achieve this PPTS 2015 requires that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of development does not dominate the nearest settled community. In this instance, the Council's Planning Policy team considered the implications of cumulative impact during the Gypsy and Traveller site allocation process and in so doing determined that the site was suitable for 5 pitches. Currently there are the 2 original pitches and a further 3 pitches within the allocation. Were this application to be approved, there would be a potential increase in pitches at Hawthorn Farm to 7 pitches. The 7 pitches would be contained within a field enclosure of generous dimensions, delineated by mature hedgerows, which has been identified as land suitable for Gypsy and Traveller site expansion (albeit up to quantum of 5). However in this instance, the proposal would not result in an overtly cramped form of development or one that would unacceptably dominate the existing residential community. In addition a generous area of open space would surround the development and the proposal would not represent overdevelopment of the land.

Ecology Impacts.

- 6.29 A previous application was refused due to the lack of ecology information submitted. This application is now supported by a Phase 1 Ecology Survey. The survey emphasises that within the proposed footprint of development, the land has no potential for habitat and that there is no evidence of protected species. The Ecology and Biodiversity Officer agrees with this conclusion and has taken the view that a condition to enhance existing site biodiversity would be acceptable in this case. As such there would be no conflict with Policy DM15.

Sustainability

- 6.30 Although the site would be approximately 5km from a Local Service Centre, the location has been considered by the Council in the context of their Gypsy and Traveller site needs assessment and allocated in the emerging Local Plan Gypsy and Traveller development. Although the occupants of the site would be largely reliant on private motor vehicles to access local services and facilities, this is not untypical of Gypsy and Traveller lifestyle choices which results in a preference for sites in rural locations.

Although not highly sustainable in respect of location, the site is not so far removed from basic services and public transport opportunities as to justify refusal on this basis

Residential amenity

- 6.31 The two proposed pitches would be of sufficient size to ensure that, spatially, living conditions would be acceptable for future occupiers. Although concern as to loss of privacy and potential for noise pollution has been expressed by the neighbour to the south east, the development would be located to the other side of an existing Gypsy and Traveller site and would be reasonably distant and as such would not be readily visible to that neighbour. In addition additional landscaping would be introduced, secured by condition, which with the passage of time would provide enhanced screening and provide enhanced separation. Consequently the impact on residential amenity is considered acceptable.

Flooding/Drainage

- 6.32 The site lies within Flood Zone 1 and as a consequence flooding is not an issue. A planning condition will however be imposed in order to secure permeability of site hardstanding and assist in surface water drainage. Details submitted with the application in respect of sanitation are considered acceptable. The application would comply with Policy DM 15 in all such respects.

7.0 CONCLUSION

- 7.1 Although this site will have some visual impact on the character and appearance of the rural area, policy allows that subject to strict control and in order to satisfy the Borough's responsibility to satisfactorily accommodate the Gypsy and Traveller community in development commensurate with their traditional lifestyle, Gypsy sites can be acceptable in the countryside. In this instance the field enclosure has been allocated in part for Gypsy and Traveller development. The proposed development would be largely screened to long distance views while additional landscape planting would mitigate views from the PROW and from neighbouring residential curtilages in accordance with policy DM15. As a result the impact of development upon the character of the countryside and the amenity of the settled community would be acceptable.
- 7.2 Grant of planning permission would assist in meeting the Council's unmet need for Gypsy and Traveller accommodation in the Borough and would comply with the Development Plan comprising the Maidstone Local Plan and with National Planning Guidance. Material circumstances indicate that subject to imposition of conditions full permanent (non-personal) planning permission should be granted.

8.0 RECOMMENDATION

GRANT planning permission subject to the following conditions:

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

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

2. No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans) shall be stationed on the application site at any time;

Reason: To accord with the terms of the application and to safeguard the amenity, character and appearance of the area.

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

Reason: The site is in the countryside where the stationing and occupation of caravans/mobile homes is not normally permitted other than by members of the Gypsy and Travelling community.

4. No external lighting shall be erected on the site at any time unless previously agreed in writing.

Reason: To safeguard the rural character and appearance of the countryside and to prevent light pollution.

5. No commercial activities shall take place on the land, including the outdoor storage of materials;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the surrounding Landscape of Local Value.

6. Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority;

Reason: To prevent overdevelopment of the site and to safeguard the rural character and appearance of the surrounding Landscape of Local Value.

7. The development shall not commence until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall include a planting specification, a programme of implementation and a [5] year management plan. The landscape scheme shall specifically address the need to provide:

- Retention and landscape reinforcement of the existing hedge along the south west and north east boundaries of the field enclosure with native hedge and tree species.
- A new double staggered mixed native hedge with trees on the outside of all boundaries of the site and outside the edges of the site access track.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following commencement of development, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or

diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To safeguard the character and appearance of the surrounding Landscape of Local Value.

9. Details of all boundary treatments shall be submitted to and approved by the Local Planning Authority prior to occupation of the site. The boundary treatment shall allow for establishment of landscaping and shall thereafter be maintained for all time.

Reason: To safeguard the character and appearance of the surrounding Landscape of Local Value.

10. All hard-standings shall be permeable to enable surface water to percolate directly to the ground below and shall be retained as such thereafter.

Reason: To minimise flooding of neighbouring land and the highway and in the interests of sustainable drainage.

11. Prior to occupation of the site hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented and thereafter retained.

Reason: In the interests of biodiversity.

12. The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing Number LP-04 'OS Location Plan' 1:2500
Drawing Number BP-04 'Site Layout Plan' 1:500
Drawing Number TS-0102017 'Existing Trees and Hedges with proposed landscape planting' 1:200

Reason: To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

Case Officer: Rachael Elliott

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

Ref: 17/502714/FULL

Ulcombe Parish Council

The Parish Council continues to challenge whether the applicant complies with the current definition of Gypsies and Travellers (G&T's) including through a letter from solicitors acting for them. The main points are as follows:

- The Council is not applying the correct test for whether the applicants are 'gypsies or travellers'.
- The Council has not properly assessed the submitted evidence in support of their assertion they are 'gypsies or travellers'.
- There appears to be no objective evidence that the applicant is nomadic. We can't see where in law it says attending horse fairs justifies a nomadic lifestyle
- There is no evidence that the applicants will only reside "temporarily" at hawthorn Farm.

Officer Comment

For clarity, the Government's Planning Policy for Traveller Sites (PPTS) states that "gypsies and travellers" means:

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

The main report outlines that the agent has confirmed that proposed families for the plots travel for work purposes and provides details of various horse fairs attended throughout the year. As such, the potential occupants are considered to pursue a 'nomadic habit of life' and comply with the G&T definition.

The Parish Council appear to suggest that it is only possible to live on a site temporarily in order to comply with the definition of a G&T. Living on a site provides a settled base from which G&T's can continue to live a nomadic lifestyle in pursuit of work. In this case, the occupants intend to continue with a nomadic habit of life but provide a settled base for their children to provide schooling and a structured family life.

RECOMMENDATION

Recommendation remains unchanged

Agenda Item 10

20 m
100 ft



REPORT SUMMARY

REFERENCE NO - 17/503401/FULL			
APPLICATION PROPOSAL Change of use from C3 (residential) to mixed use C3 (residential) and Sui Generis for the training of canines and associated boarding and activities (Retrospective).			
ADDRESS Catharos Lithos Yelsted Road Yelsted Sittingbourne Kent ME9 7UU			
RECOMMENDATION - GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION The use of the site for the training of dogs is considered acceptable in this location and the application demonstrates that there would not be significant harm to residential or visual amenity and the use would not have a significant impact on highway safety and subject to conditions the issues associated with the use can be suitably addressed and all other materials planning considerations are considered acceptable.			
REASON FOR REFERRAL TO COMMITTEE The application has been called-in by Cllr Garten due to the sensitivity of the site and concern in the community. The recommendation is also contrary to the views of Stockbury Parish Council who have requested the application be presented to the Planning Committee			
WARD North Downs	PARISH/TOWN COUNCIL Stockbury	APPLICANT Mr Owolabi Abimbola AGENT Planning Direct	
DECISION DUE DATE 29/08/17	PUBLICITY EXPIRY DATE 04/12/17	OFFICER SITE VISIT DATE 28/7/17	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
88/0804	Replacement bungalow for residential use	Permitted	7/12/88
53/0196/MK2	The erection of a bungalow or the alteration of existing building to a bungalow	Permitted	10/3/54
52/0023/MK2	The erection of a bungalow in connection with a smallholding	Permitted	29.05.1952
Land to the west (Bungalow at Hillview)			
17/500819	Detached double garage with pitched roof and storage in the loft space.	Permitted	20/11/17
16/502175	Replacement of existing mobile home with the erection of a chalet-style detached bungalow.	Permitted	13/5/16
15/506969	The replacement of the existing caravan with a detached bungalow property.	Permitted	24/11/15
12/2232	Application for the approval of all reserved matters pursuant to outline permission MA/10/1121 (Outline application for the	Permitted	30/4/13

	erection of a bungalow (to replace existing residential caravan) with all matters reserved for future consideration)		
10/1121	Outline application for the erection of a bungalow (to replace existing residential caravan) with all matters reserved for future consideration	Permitted	19/5/11
10/0522	An application for a certificate of lawfulness for an existing use being the stationing of a caravan for use as an independent residence.	Permitted	20/5/10
96/0486	Erection of a detached replacement dwelling (amended design to that permitted under reference MA/94/0588N	Permitted	7/8/96

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located along a long access road from Yelsted Road to the west of the site. This access serves the application site, Cherriamber Lodge and a recently completed replacement dwelling to the west of the site.
- 1.02 The application site measures approximately 0.64hectares and includes the residential dwelling known as Catharos Lithos and land to the east. The existing dwelling is a modest single storey bungalow. The area of land to the east is subdivided into two areas, that immediately to the east of the dwelling which contains a number of single storey buildings used as a training area and kennels. This area is enclosed by wooden fencing with mesh wire and contains a number of wooden structures used in association with the dog training. The adjoining field is enclosed by hedging and planting along the northern and southern boundaries with post and wire fencing separating the site from neighbouring land. This area is used as ancillary dog training space. Additional land to the east of the site is also within the applicants ownership. At the time of application the new dwelling to the west of the site was also within the applicants ownership.
- 1.03 The site is outside any settlement boundaries as defined in the local plan and as such is within the open countryside and the Kent Downs Area of Outstanding Natural Beauty (AONB).

2.0 PROPOSAL

- 2.01 The application seeks to regularise the use of the site for the training of canines, including the associated boarding and activities.
- 2.02 The applicant operates a business under the company name DDR Guard Dogs. The business trains dogs such as Rottweiler, German Shephard, Doberman, Malinois and Mastiff. It specialises in working dogs and problem dogs that could be a social risk and with animals that genetically have a higher probability to be fierce. The aim of the training is to take away the decision making from these dogs so they understand to make the right choices. The primary aim of the training is to instil obedience.

- 2.03 The Design and Access Statement sets out that that the business employs four staff on a part-time basis. This equates to two full-time employees, together with the applicant. The employees work 09:00-13:00.
- 2.04 The existing buildings have been upgraded to accommodate an indoor training area within the larger building and kennels are provided in the two smaller buildings. The number of kennels totals 18, with 9 in each of the two buildings.
- 2.05 The application sets out that that there are a maximum of 2-3 clients per day, with no more than 3-4 per week.
- 2.06 The training activities generally take place between the hours of 09:00-14:00 and the applicant is willing to accept a condition which restricts the hours of training to 09:00 – 15:00 Monday to Friday.
- 2.07 Informal parking is provided adjacent to the existing dwelling and there is existing fencing which separates the main operations of the training business from the residential dwelling.
- 2.08 Overnight kennelling is provided for those dogs whom are undergoing training and cannot be brought back to the site on a daily basis. Any kennelling provided is purely in association with the dog training.
- 2.08 The applicant owns a number of his own dogs which reside at the site, these are either bred or brought onto the site and sold once trained. This use by the applicant should be considered as distinct from those dogs brought to the site by external clients to be trained. It is unclear whether the staffing levels are also independent or part of both the care and training of the owners dogs, together with those from clients.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan October 2017 : Policies SP17, SP21, DM1, DM3, DM7, DM8, DM30, DM31 and DM37

4.0 LOCAL REPRESENTATIONS

4.01 Stockbury Parish Council

The Parish Council objects to the application, in summary for the following reasons :

- Site subject to a number of enforcement investigations
- The site is within the Area of Outstanding Natural Beauty and the proposed business use is not in keeping with the character of the area
- Application contains inaccuracies regarding the activities that took place at the site prior to the applicants ownership
- Impact of noise and disturbance
- Character of the area is residential
- Inadequate security of the site
- No provision for waste disposal

4.02 Adjoining neighbours were notified of the application as originally submitted. A site notice was also put up at the site. 8 objections have been received in response to the consultation which are summarised as follows:

- Set distance in planning law between boarding kennels and other properties
- Noise and disturbance
- Safety of dogs
- Impact on AONB
- Number of adjacent residential properties
- Traffic
- Inaccuracies in statements
- Overdevelopment of site
- Threat to nearby farms, farm animals and horses due to escaping dogs
- No provision to deal with waste

4.03 Following the submission of additional information neighbours were re-consulted and 3 comments were submitted (from previous contributors), these provided the following additional comments :

- Inaccuracies in reports
- Reports not based on the number of dogs proposed to be kept at the site
- Biased noise report
- Highway safety

5.0 CONSULTATIONS

5.01 Environmental Health Officer : No objection subject to conditions

6.0 APPRAISAL

6.01 The key issues for consideration relate to:

- **Principle of development**
- **Sustainable development**
- **Impact on neighbouring residential amenity**
- **Highways impact**

Principle of Development

6.02 The application site is within the countryside, whereby Policy SP17 sets out that development proposals in the countryside will not be permitted unless they accord with other policies in the plan and would not result in harm to the character and appearance of the area. There are no policies that specifically relate to canine uses, however there are policies which support economic development.

6.03 Policy SP21 seeks to support the economy of the borough and this can be achieved through prioritising the commercial re-use of existing rural buildings and supporting proposals for the expansion of existing economic development within the countryside. Policy DM31 allows for the conversion of rural buildings subject to a number of criteria which relate to the quality of the existing building, the structural integrity of the buildings, impact on landscape, parking implications and potential harm from boundary treatment/subdivision. Traffic implications are also a consideration when the building is proposed to be used for commercial purposes. Policy DM37 allows for the expansion of rural businesses, which although not fully relevant as the site

has not previously benefitted from any commercial consent, the policy does provide useful criteria which are pertinent for consideration, including impact on the landscape, traffic implications and impact on neighbouring amenity.

- 6.04 Paragraph 28 of the NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings.
- 6.05 The property history highlights that consent was granted for a residential dwelling on the site in the 1950s, which the description suggests this was in association with a smallholding. This dwelling was replaced in the 1980s with the bungalow that currently exists on the site. There is no planning history relating to the other buildings on the site (those used for the training and kennelling), however these buildings have been on the site for some time. The Design and Access Statement suggests that the buildings were built by the previous owner as kennelling and for the keeping of horses (likely to date from the 1990's). These buildings are certainly immune from any enforcement action due to the passage of time and although they have been recently upgraded, those works have not been considered to require planning permission in themselves.
- 6.06 The design and access statement suggests that the previous occupier used the site for the kennelling of security dogs and dog breeding and at points of time employed a professionally qualified dog trainer. The applicant asserts that the site is being used in a similar manner to the historical use of the site, however no certificate of lawful development exists to verify a lawful use of the site
- 6.07 In principle, the operations of the business re-uses existing buildings on the site and relate to a rural enterprise which requires open space for training and as such requires a rural or semi-rural location where there is space available. In principle the use may be acceptable subject to all other material planning considerations being acceptable. These matters are discussed below.

Sustainable development

- 6.08 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development, these being the economic, social and environmental roles. Paragraph 14 sets out that at the heart of the NPPF is the presumption in favour of sustainable development and for decision making this means approving development proposals that accord with the development plan without delay, unless material considerations indicate otherwise.

Economic role

- 6.09 As set out above, both national and local plan policies support economic development within rural areas. The application however provides limited economic benefit as it only employs 2 full-time staff members.

Environmental role (including visual impact)

- 6.10 The NPPF sets out that that role should support strong, vibrant and healthy communities....and by creating a high quality built environment, with accessible local services that reflect the community's needs.

- 6.11 The environmental role as set out in the NPPF states that the planning system should *'contribute to protecting enhancing our natural, built and historic environment.'*
- 6.12 Policy SP17 sets out that great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty, mirroring that set out in Paragraph 115 of the NPPF, which recognises that AONB's have the highest protection in relation to landscape and scenic beauty.
- 6.13 Criteria set out in Policies DM1, DM30 and DM31 of the local plan re-iterate the importance of the landscape. Also DM37 and DM41 which although not directly relevant do relate to rural business and equestrian development which can draw parallels to this application and both highlight impact on the landscape as a key consideration.
- 6.14 The application re-uses existing buildings and although some degree of enclosure has been created to sub-divide and enclose parts of the site, the type of fencing is such that it does not have a significant impact on the character and appearance of the area and the landscape designation. The fencing is akin to an equestrian development which are common within the AONB and wider countryside and although cumulatively can have an impact, in this case it is not considered that the harm is significant. Some paraphernalia associated with the training activities is sited on the land immediately adjacent to the buildings, however this is low key and a condition could be attached to ensure that this paraphernalia is not spread into the lower field.
- 6.15 It was noted at the officer's site visit that there is a larger wooden structure on the site in the lower field which provides a viewing platform. This does not form part of the current application and the enforcement team are aware.
- 6.16 Overall it is not considered that the use of the site for dog training would result in significant harm to the character and appearance of the AONB nor the wider countryside setting.

Social role

- 6.17 The NPPF sets out that that role should support strong, vibrant and healthy communities...and by creating a high quality built environment, with accessible local services that reflect the community's needs.
- 6.18 The Design and Access Statement sets out that :
- 'there is currently a dire shortage of dog training facilities throughout the UK. To put this into context at a local level there are no licensed facilities within the Maidstone BC area, even though the number of dogs within the borough is just short of one million.*
- Following research undertaken by the applicant and Planning Direct we have been unable to identify a single dog training facility within 200 miles of this site. Furthermore within the UK there is not even one licensed facility which deals with out of control dogs.'*
- 6.19 The licensing that the statement refers to is the National Association of Security Dog Users (NASDU), the statement however goes on to suggest that a license is not

obligatory and therefore the likelihood of training facilities existing is greater than suggested in the statement.

- 6.20 This said there is a likely need for training facilities, although the number of dogs the applicant has been training from external clients is relatively low at 3-4 per week. It is understood that the applicant also trains his own dogs which are bred or brought onto the site and sold once trained.
- 6.21 In terms of location the site cannot be described as sustainable, as movements to and from the site are reliant on private vehicles. The site is some distance from the urban area or any rural service centres or larger villages. This said it is unlikely that any sustainable modes of transport would be suitable for transporting dogs to and from the site, so where-ever the use was located it is likely that private vehicles would be relied upon. The applicant also seeks to reduce traffic movements by providing overnight kennelling for those clients who live further afield. The number of traffic movements referred to are also limited to a maximum of 4 staff members and 3-4 'clients' per week.
- 6.22 The nature of the use is such that it requires a rural or semi-rural location due to a need for space to enable the dogs to be trained and for exercise purposes. It is not uncommon to find dog related uses such as boarding kennels within a similar location, there are existing examples locally along Yelsted Road, for example Beaux Aires Boarding Kennels.
- 6.23 There is a balance to be struck between the unsustainable location and the characteristics of the use. In this case the use does not propose any new buildings and the visual harm as set out above is considered acceptable. The site requires a location with space available, there is a suggested need for such a use, the number of movements associated with the use is limited and a similar use in any location is unlikely to utilise sustainable modes of transport.

Overall

- 6.24 The application demonstrates that there would not be significant visual harm that would result from the use, thus fulfilling the environmental role of sustainable development. Although the use would be a small employment generator, it would provide a service and facility that there is a suggested need for and that the site is suggested to have been used in a similar fashion by previous occupiers (although this use have not been subject to a lawful development certificate and there are differing opinions between the applicant and representation on this matter). The use would re-use existing buildings and would be unlikely to generate significant traffic movements or would generate similar traffic movements if the use was located elsewhere. As such it is considered that the application overall can be considered as sustainable development in accordance with the NPPF.

Residential Amenity

- 6.25 Paragraph 17 of the NPPF sets out the core planning principles which includes :
- 'Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'*
- 6.26 Policy DM1 of the emerging local plan sets out at para iv that proposals shall :

'Respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.'

- 6.27 The nearest residential dwelling is Catharos Lithos itself, this property is included within the application site and the application seeks a sui generis use for the entire site which would include the residential dwelling. As such the property would be linked to the dog training use and it is considered appropriate that a condition be attached that the dwelling be kept in the same ownership as the dog training business to protect the amenity of this nearest property.
- 6.28 Other neighbouring properties are located to the west, namely Bungalow at Hill View (at time of application in the applicants ownership) and Cherriamber Lodge. To the south is Green Acres, to the south-west The Acorn and to the east Plum Tree Cottage and Plum Tree Farm. To the north and north-west other properties are located approximately 250m from the application site (Poppyview and High Vistas).
- 6.29 The buildings themselves are a significant distance from neighbouring properties not to be harmful. The main issue relates to the impact of the dog training on the amenity of the neighbouring properties by reason of noise and disturbance, together with the impact of clients to the site using the single track that links the site with Yelsted Road.
- 6.30 Firstly considering the use of the access track. The use of the site for dog training will create additional traffic movements that would be associated with the use of Catharos Lithos as a single dwellinghouse. However due to the number of visitors that the applicant refers to (3-4 per week, plus daily staff movements) it is not considered that this level of traffic movements (which could be restricted to the morning and early afternoon by condition) is considered significant to warrant refusal on ground of noise and disturbance.
- 6.31 Secondly considering the matter of noise and disturbance from the dog training. The noise from dogs has been a subject of investigation from the planning enforcement team and the environmental protection team. The site has been subject to a noise abatement notice and monitoring for some years (with some investigations pre-ceeding the applicants ownership of the site). The latest abatement notice was served due to a number of complaints and on basis that on the balance of probability that due to the number of kennels at the site the noise and disturbance could be problematic unless properly managed. Since that time the number of complaints has reduced and there have been changes to the buildings on site and to the management of the use. The training building was previously open sided, but now is enclosed with double glazing and insulation. The kennels have been fitted with new thicker doors. Other measures to combat noise have been implemented which include anti bark collars, specialist food and diet. Construction works on the new dwelling have also finished. It should be noted that regardless of the planning decision, the nuisance investigation by the environmental protection team is likely to remain an ongoing case.
- 6.32 These environmental matters and investigations although background, it should be noted that those investigations carried out by the environmental protection team are under separate legislation to that of planning. The planning thresholds relate to the impact on general amenity and sets a lower bar than that under environmental

legislation which considers whether the harm is a statutory noise nuisance. Determining this current application needs to be considered on the merits of the application and the evidence submitted.

- 6.33 At the request of the Environmental Health Officer (EHO) the application is now accompanied by a noise survey which seeks to assess the impact of the training activities. This report has been assessed by the EHO who is satisfied with the general methodology of the report and subject to conditions relating to the use of the outside training area and a management plans, it is not considered for the purposes of planning permission that the use of the site for dog training results in noise of a significant level to warrant refusal of the application.
- 6.34 The application sets out the methods which seek to control noise which have included the upgrading of the kennels and training areas, keeping kennel doors shut, anti bark collars and specialist food to tackle boredom. A condition is suggested to provide a management plan which would set out how the management of noise and disturbance occurs and would form part of the approval.
- 6.35 It is accepted that there have been on-going complaints about the use of the site and associated dog noise, however the applicant has provided robust evidence to demonstrate that the noise levels can be mitigated to an acceptable level and it is not considered that the application can be refused on the grounds of noise and disturbance in its own right.

Highways

- 6.36 The use relies on the use of private vehicles, however the number of traffic movements, totalling 4 staff movements per day and 3-4 training clients per week (which could be conditioned) is not considered significant to cause significant harm to highways safety. The existing site has sufficient space available to provide parking for the use.

7.0 CONCLUSION

- 7.01 The use of the site for the training of dogs is considered acceptable in this location and the application demonstrates that there would not be significant harm to residential or visual amenity and the use would not have a significant impact on highway safety and subject to conditions the issues associated with the use can be suitably addressed and all other materials planning considerations are considered acceptable.

8.0 RECOMMENDATION – GRANT Subject to the following conditions

- (1) The development is hereby permitted in accordance with the following approved plans:

Drawing 1 Revision 1 (Existing/Proposed Site)
Drawing 2 (Floor plan – Kennels)
Drawing 3 (Floor plan – Kennels)
Drawing 4 (Floor plan – Training Area)

Reason: To clarify which plans have been approved.

- (2) The number of client dogs brought onto the site for training or accommodated overnight shall not exceed four customers with one dog per customer per calendar

week and a log of these customers shall be kept. This log shall be kept available for inspection by the Local Planning Authority on request.

Reason : To mitigate the harm from traffic movements and noise and disturbance to neighbouring amenity.

- (3) The total number of dogs kept on the site at any one time shall not exceed 18.

Reason : To mitigate the harm from noise and disturbance to neighbouring amenity and there is sufficient kennelling to accommodate 18 dogs.

- (4) Within 3 months of the date of this decision, details of the means of disposal of faecal, bedding or other waste arising from the animals housed within the development shall be submitted for approval to the Local Planning Authority .Such waste material arising from the animals so housed shall be disposed of solely in accordance with the approved details.

Reason: In the interests of the protection of the amenity of the surrounding area.

- (5) Within 3 months of the date of this decision, details of any permanent or temporary gates, walls, fences or other means of enclosure sited within the site area shall be submitted to and approved in writing by the Local Planning Authority and implemented in strict accordance with the approved details.

Reason: To enable the Local Planning Authority to protect the visual amenities of the locality.

- (6) The field to the extreme east of the site as shown on Drawing Number 1 Revision 1 and marked as a training field shall be used solely for exercise of the dogs and no associated paraphernalia shall be brought onto or stored in the said field.

Reason : To protect visual amenity

- (7) Within 2 months of the date of this decision a management plan to minimise noise shall be submitted for approval to the local planning authority. Once approved the plan shall be implemented in accordance with the approved details. The plan shall be reviewed annually and in response to complaints submitted to the Council about noise. The plan shall include details of training and exercise programmes (including details of hours, number of dogs at each time, whether the training/exercise is external or internal).

Reason : To mitigate the harm from noise and disturbance to neighbouring amenity

- (8) The dwelling known as Catharos Lithos and included within the application site shall not be occupied independently of the use hereby permitted.

Reason : The harm from noise and disturbance may adversely affect residential amenity if in separate ownership

- (9) Any boarding of customer dogs shall be in association with their training and shall be limited to the number set out in Condition 2.

Reason : To ensure that the boarding of dogs remains ancillary to the training use.

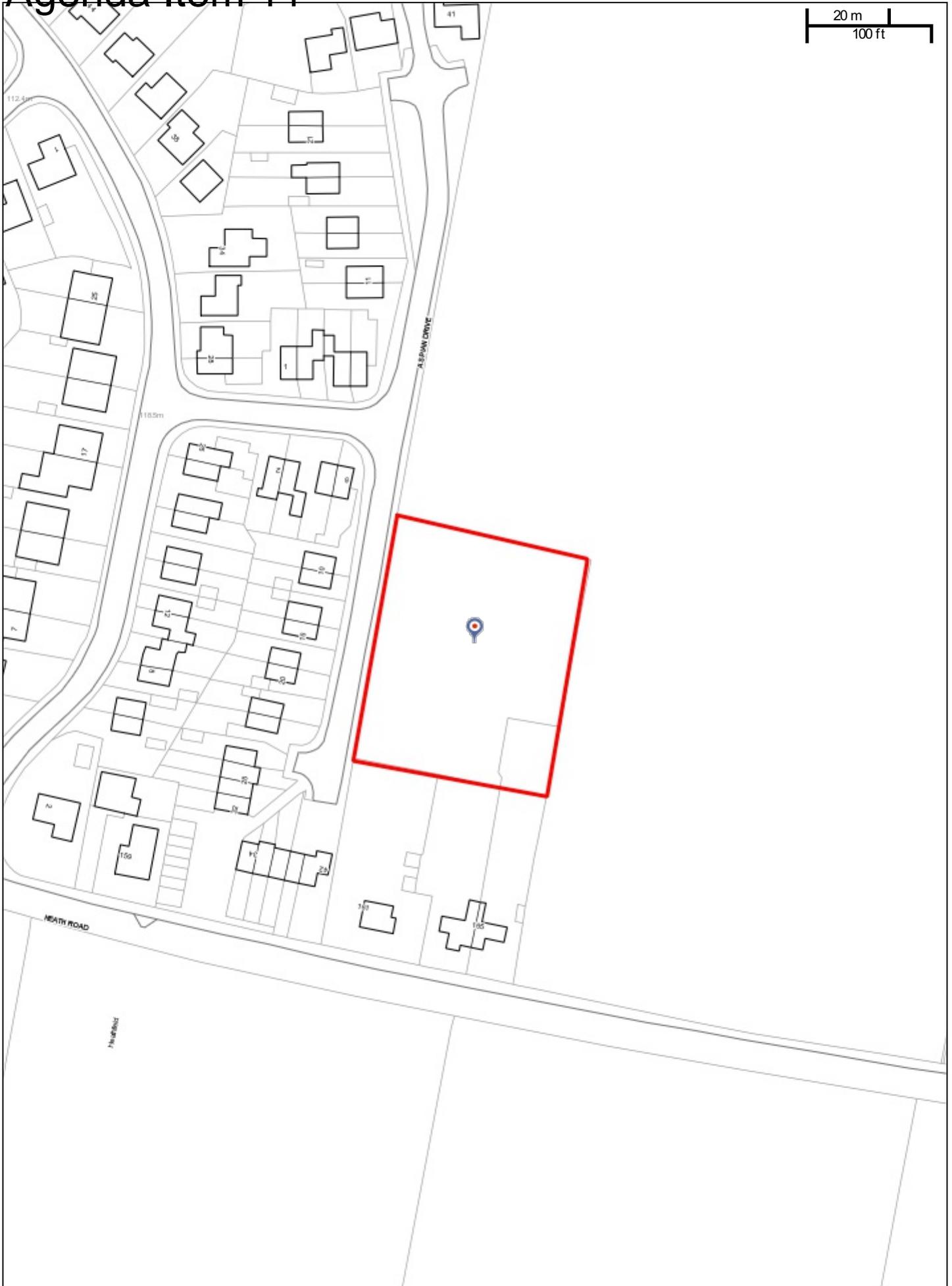
INFORMATIVES

- (1) The wooden structure located within the training field does not form part of this consent.
- (2) The application has been considered on the basis of the submitted information which sets out that no more than four dogs not in the applicants ownership are brought onto the site for training within any given week. If the use of the site changes and this number increases a new application or variation of condition may be required.
- (3) The applicant is advised that the condition details required by Condition 7, may require an updated noise survey to ensure that the training/exercise programme proposed would not result in undue noise and disturbance.

Case Officer: Rachael Elliott

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

Agenda Item 11



20 m
100 ft

17/504314 - Land Rear of 161 Heath Road

Scale: 1:1250

Printed on: 11/12/2017 at 12:19 PM by ElyH

REPORT SUMMARY

REFERENCE NO - 17/504314/OUT			
APPLICATION PROPOSAL			
Outline application (with all matters reserved) for erection of 10 dwellings (fronting Aspian Drive) comprising two detached and four pairs of semi detached homes of two storey design with associated access, parking and landscaping. (Resubmission of 16/507895/OUT)			
ADDRESS Land Rear of 161 Heath Road Coxheath Kent ME17 4PA			
RECOMMENDATION - GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION			
The site although being defined as countryside, does not form part of the open countryside and is land locked by existing or proposed residential development and it is not considered that the development would harm the intrinsic character of the countryside which policy and the NPPF seek to protect. It is not considered that the development of the site can be resisted in principle and the applicants have reduced the proposed quantum of development compared to the earlier refused scheme, to on balance an acceptable level which would be appropriate for the context of the site. The proposed development would not cause significant harm to neighbouring amenity and would allow for appropriate mitigation regarding landscaping, ecological matters and suitably addresses highways and parking matters and all other matters can suitably be addressed through appropriate conditions and the reserved matters submission.			
REASON FOR REFERRAL TO COMMITTEE			
The application has been advertised as a departure and relates to a major development within land defined as countryside.			
The recommendation is contrary to views of the Parish Council (although not explicitly requested to be presented to Planning Committee for this reason)			
WARD Coxheath and Hunton	PARISH/TOWN COUNCIL Coxheath	APPLICANT Brookworth Homes Limited AGENT Robinson Escott Planning	
DECISION DUE DATE 02/03/2018	PUBLICITY EXPIRY DATE 03/11/17	OFFICER SITE VISIT DATE 16/10/17	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/507895/OUT	Outline application (with all matters reserved) for erection of 14 dwellings on land fronting Aspian Drive with associated access, parking and landscaping.	Refused	5/5/17
(1)The proposed development to provide 14 dwellings would result in a cramped and overdeveloped scheme by reason of the loss or future pressure on boundary trees and landscaping and limited scope for replacement or enhancement, a development dominated by hardsurfacing and parking and a form of development which would be uncharacteristic to the surrounding area contrary to the National Planning Policy Framework 2012, National Planning			

Practice Guidance 2012), Policies ENV6 and ENV28 of the Maidstone Borough Wide Local Plan 2000, Policies SP11, SP13, SP17, DM1, DM3, DM12 and DM34 of the Maidstone Borough Local Plan May 2016 (submitted version)

(2)The proposed development to provide 14 dwellings would be likely to cause harm to the future occupiers of the dwellings to the north of the site, as approved under application 14/0836 and the future occupiers of the proposed development by reason of causing significant harm through overlooking and loss of privacy contrary to the National Planning Policy Framework 2012, National Planning Practice Guidance 2012), Policy DM1 of the Maidstone Borough Local Plan May 2016 (submitted version)

(3)In the absence of appropriate legal mechanism to secure the delivery of affordable housing, and to mitigate the additional impact on local community facilities in respect of education, libraries, open space and healthcare provision the development would fail to contribute to meeting local need for affordable housing and would be detrimental to existing local social infrastructure and therefore would be contrary to policy CF1 of the Maidstone Borough-Wide Local Plan (2000), Affordable Housing DPD (2006), Open Space DPD (2006), Policies DM13, DM22 and DM23 of the Maidstone Borough Local Plan May 2016 (submitted version), Policy SP20 of the Maidstone Borough Local Plan Proposed Main Modifications dated March 2017 and central government planning policy as set out in the National Planning Policy Framework 2012 and National Planning Practice Guidance 2012

Current appeal.

80/1400	Outline application for erection of 3 pairs of semi-detached houses (6 houses) - Refused	Refused	9/10/80
79/2128	Outline application for three pairs of semi detached houses – Refused	Refused	8/2/80
Site to the north/east			
14/0836	Erection of 110 dwellings with creation of a new access and landscaping - Permitted	Permitted	18/9/15
Land to the south			
17/503285	Erection of four dwellings with parking provision and highways access.	Permitted	27/10/17

MAIN REPORT

The application was withdrawn from the 30th November 2017 Committee agenda to seek clarification regarding the ownership of a strip of land separating the application site from the back edge of the highway. The owner of this strip of land has now been identified and the submitted plans have been amended to include this strip of land and notice has been served on the owner of the land.

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land to the rear of 161 Heath Road in Coxheath. The land in part forms rear gardens to the properties fronting Heath Road and the remainder is a small parcel of agricultural land totalling approximately 0.30 hectares. The land centrally has been cleared of previously coppiced woodland, with some tree and hedge planting remain around the perimeter of the site. There is currently no formal access into the site. The northern and eastern boundaries adjoin land recently granted planning permission for 110 new dwellings and the western boundary adjoins the cul-de-sac of Aspian Drive.

- 1.02 The site is outside the defined village boundary for Coxheath with the boundary wrapping around the site in the adopted plan. As such the site is defined as being within the countryside, albeit the site is enclosed along all boundaries by existing residential development and/or that currently under construction.

2.0 PROPOSAL

- 2.01 The application seeks outline consent for the erection of 10 dwellings with all matters reserved.

The indicative information submitted shows the following :

- Access from Aspian Drive to the west of the site, with two entrances, one to the north and one to the south
- 4no. pairs of semi-detached properties
- 2no. detached dwellings
- Rear gardens to the north and south of the site
- Individual tandem parking
- 2-storey dwellings with a mix of hipped/gabled dwellings. Brick built and tile hanging
- Hedge buffer planting along the western frontage (fronting Aspian Drive)
- Tree planting along the north and southern boundaries.

The site area measures approximately 0.3hectares and the provision of 10 dwellings would result in a density of approximately 30 dwellings/hectare.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan October 2017 : Policies SP11, SP13, SP17, SP19, SP20, DM1, DM3, DM8, DM12, DM19, DM20, DM23 and DM30

4.0 LOCAL REPRESENTATIONS

4.01 Coxheath Parish Council

Object to the application In summary, for the following reasons :

- The proposed development is still an overdevelopment of the countryside and the style and density of housing is out of keeping with the surrounding are
- The site is not included in the Maidstone Local Plan;
- The site has historically been the habitat of bats and badgers;
- The proposed development would have a detrimental effect on traffic movement and parking in a narrow and quiet cul-de-sac, thereby adversely affecting the residential amenity of neighbouring properties;
- Other sites in the vicinity have been refused for the reasons, particularly at (1) above;
- Local intelligence indicates that asbestos is present on parts of the site;
- We are led to believe that recent changes to planning policy have reduced the level of building at which affordable housing has to be included on a site. This does not seem to be addressed.

4.02 Adjoining neighbours were notified of the application as originally submitted. A site notice was also put up at the site. 14 objections have been received in response to the consultation which are summarised as follows:

- Increase traffic and noise
- Loss of trees
- Loss of outlook and privacy
- Parking problems
- Impact on ecology
- No more houses are needed
- Noise, dust and aggravation of building at Countryside site, don't want this to persist
- Loss of green space
- Outside local plan and neighbourhood plan
- Pressure on infrastructure
- No surface water drainage strategy

5.0 CONSULTATIONS

- 5.01 KCC Drainage : No objection subject to condition
- 5.02 Kent Police : Advise regarding designing out crime
- 5.03 UK Power Networks : No objection
- 5.04 NHS : No contributions sought
- 5.05 Natural England : No comments
- 5.06 Southern Water : Foul sewer crosses the site. Advice regarding diversion and suggested informative.
- 5.07 Parks and Open Space Officer : Request for contribution of £15 750 towards Whitebeam Drive play area.
- 5.08 Environmental Health Officer : No objection subject to conditions and informatives.
- 5.09 KCC Archaeology : No objection subject to condition
- 5.10 KCC Ecology (comments received on previous application) : We have reviewed the ecological information submitted in support of this planning application and advise that sufficient information has been provided. We advise that a condition is attached to any granted planning permission to provide net gains for biodiversity. Planning informatives should be attached for the protection of breeding birds and removal of invasive species.
- 5.11 KCC Highways : Raises a number of points relating to type of application, access, parking, sustainable transport and refuse strategy. (these matters are addressed further within the report below)

6.0 APPRAISAL

Main issues

- 6.01 The key issues for consideration relate to:

- **Principle of development**
- **Sustainability**
- **Residential amenity**
- **Highways**
- **Ecology and tree matters**

Principle of Development

- 6.02 The application site is outside any defined settlement boundary and as such is within the countryside as defined in the local plan. Policy SP17 of the local plan makes it clear that development proposals in the countryside will not be permitted unless they accord with other policies in this plan and do they will not result in harm to the character and appearance of the area. Recent approvals for new surrounding residential development have altered the character of the area and the site no longer forms part of the open countryside but is enclosed by housing along all boundaries. A recent resolution by this Committee to approve development of 4 new dwellings to the south of the site (within existing residential curtilages) further encroaches into this small area of undeveloped land.
- 6.03 Policy SP17 and other policies within the adopted policy and guidance do not readily support residential development in the countryside, but at the heart of the NPPF is the presumption in favour of sustainable development and the sites contribution to windfall sites within the Borough is also a factor in favour of the development. This is discussed in further detail below, together with other material planning considerations.

Sustainability

- 6.04 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development, these being the economic, social and environmental roles. Paragraph 14 sets out that at the heart of the NPPF is the presumption in favour of sustainable development and for decision making this means approving development proposals that accord with the development plan without delay, unless material considerations indicate otherwise.

Economic role

- 6.05 The proposal is for a housing scheme of 10no dwellings. If granted the development would create jobs during the construction phase and therefore could be considered to have minor impact on the local economy and provide increased population to sustain the facilities that Coxheath has to offer.

Social role and Environmental role (including impact on visual amenity of the street scene)

- 6.06 The NPPF sets out that that role should support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built environment, with accessible local services that reflect the community's needs.
- 6.07 The environmental role as set out in the NPPF states that the planning system should '*contribute to protecting and enhancing our natural, built and historic environment.*' With overlap to the social role above.

- 6.08 The Council can demonstrate a 5YHLS, as such there is no overriding need to identify additional housing sites and although windfall development would contribute to the overall supply, such development should be focussed on sites where the local plans support such proposals.
- 6.09 The site is clearly outside the settlement boundary within the adopted local plan, with the boundary lying to the western boundary of the site. However due to the allocated land to the north and east (which is currently undergoing construction for 110 dwellings), the settlement boundary now extends around the entire perimeter of the site, excluding the application site and numbers 161-165 Heath Road from within the defined boundary.
- 6.10 Following completion of the neighbouring development the site will become completely enclosed by residential development and although the site does presently have some localised amenity value in that it represents an area of undeveloped land within the wider development, it is difficult to argue that the site represents countryside characteristics and in this case it is considered that policies relating to countryside restraint carry limited weight for the consideration of whether or not the principle of development on the site would be acceptable. The considerations of impact on the character and appearance and quality of the environment do however carry weight to consideration of whether the development would be acceptable or not.
- 6.11 The social role, however also requires the creation of a high quality built environment. Policy SP17 of the adopted local plan sets out the criteria for assessing development within the countryside which includes, the type, siting, materials and design, mass and scale of the development and level of activity maintains or where possible enhancing local distinctiveness.
- 6.12 Policy DM30 of the local plan sets out that *'any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflects the landscape character of the area.'*
- 6.13 Policy DM12 of the local plan sets out :
- '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 in which it is situated.'*
- 3. At sites within or adjacent to the rural service centres and larger villages as defined under policies SP5-10 and SP11-16 respectively new residential development will be expected to achieve a net density of 30 dwellings per hectare.'*
- 6.14 Policy DM1 of the emerging plan sets out amongst other criteria :
- 'Respond positively to and where possible enhance, the local....character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and vernacular materials where appropriate.'*
- 6.15 The application is only in outline with all matters reserved. As such the layout, scale and appearance of the proposed dwellings are all reserved for future consideration. The application is however accompanied by an indicative layout which seeks to demonstrate that 10 dwellings could be satisfactorily accommodated onto the site.

The submitted plan shows two access points from the Aspian Drive frontage, this would lead to half the houses each and their respective parking areas.

6.16 The indicative layout shows some planting along the Aspian Road frontage, with some tree planting along the boundaries. The indicative layout also shows the landscaping associated with the neighbouring countryside development. The indicative layout indicates the removal of the existing tree/hedge planting along the western boundary fronting Aspian Road (which were shown to be retained on the earlier refused application) and the retention of the hedge along the northern and eastern boundaries. This hedging is currently formed of Holly, Hawthorn and Hazel.

6.17 The retention of boundary planting is important to retaining the character of the site and mitigating the loss of this former coppiced woodland area. Point (v) of DM1 sets out that development should :

'Respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention within the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area;'

6.18 The removal of the planting along the Aspian Drive is considered as a negative to the proposed scheme and the indicative layout does not allow sufficient space along the Aspian Drive frontage to provide significant or meaningful replacement planting.

6.19 However the proposal would result in a density of approximately 30 dwellings per hectare, thus in accordance with the 30 dwellings set out in policy DM12. As all matters are reserved the layout is not fixed and there is the opportunity to add conditions which could provide parameters for the reserved matters application which could include the retention or meaningful replacement of the planting along the Aspian Drive frontage. There is opportunity for the footprint of the proposed dwellings to be reduced thus enabling a greater buffer along the western boundary.

6.20 The only matter for consideration under this submission is the principle of the development of the site for 10 dwellings and notwithstanding concerns regarding the indicative layout it is considered that on balance the site could accommodate the quantum of development proposed and would not be out of character with the surrounding area.

Residential amenity (future and existing occupiers)

6.21 Paragraph 17 of the NPPF sets out the core planning principles which includes :

'Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'

6.22 Policy DM1 of the emerging local plan sets out at para iv that proposals shall :

'Respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built

form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.'

- 6.23 The application is submitted in outline with all matters reserved, this said the indicative plan provides an indication of how layout could be achieved to provide 10 dwellings on the site.
- 6.24 To the south and west of the site it is considered that a suitable level of separation exists that no significant harm to neighbouring amenity of existing occupiers would result.
- 6.25 To the east of the site the dwellings currently under construction have flank walls facing the application site. Although the indicative layout shows flank walls associated with the application site in close proximity to the boundary, it is considered that any new opening could be restricted and the wall would not be overly overbearing or overshadowing to the future occupiers of the neighbouring occupiers.
- 6.26 To the north there are two principle new buildings being built in close proximity to the boundary, these being a two-storey apartment block and a flat over a garage (FOG). These would both have windows facing towards the application site. These windows principally serve bedrooms in the apartment block and a living/dining/kitchen in the FOG (this room is dual aspect with an additional window facing northwards). The earlier application for 14 dwellings was refused on the grounds that there would be harm to these dwellings. The indicative layout however now shows a greater level of separation and due to the reduced quantum of development proposed it is considered that the development of 10 dwellings could be accommodated without significant harm to the neighbouring residential amenity of these occupiers.
- 6.27 It is considered that a development of 10 dwellings would not harm the residential amenity of neighbouring dwellings.

Trees and landscaping

- 6.28 There are no protected trees on the site and the site has been substantially cleared of the former coppice woodland trees. The trees along the boundaries have predominantly been retained (although currently proposed to be removed as part of the indicative layout). It is unfortunate that the site has been cleared, however the trees were not protected and as such was an area of unmanaged woodland.
- 6.29 The application is accompanied by a tree survey which the contents of are considered and representative of the current site. As described above the existing hedge along the northern boundary would be retained and is shown to be re-enforced, together with the retention of the hedge along the eastern boundary and proposed new planting to the south.
- 6.30 As described above the loss of the planting along the western boundary (fronting Aspian Drive) is considered unacceptable, especially in the absence of any meaningful replacement. However as concluded above as matters of layout and landscaping are reserved there remains opportunity to either retain or replace this frontage planting through the reserved matters scheme.
- 6.31 As such it is considered the proposed development for 10 dwellings would secure the necessary mitigation through a robust landscaping scheme and the future pressure on any retained existing trees would not be significant such that the proposed quantum of development proposed is considered acceptable.

Highways and parking

- 6.32 The proposal to provide 10 dwellings would not give rise to significant highways implications that would result in the ability to sustain a reason for refusal on grounds of highways implications.
- 6.33 The Highways officer has raised queries regarding whether the application is truly outline or there are some matters for consideration. It is clear by way of description that all matters are reserved. In terms of the potential access consideration, two points of access are currently shown on the indicative layout and the single point of access was considered on the earlier application as acceptable by the Highways Officer. If the two points of access were carried forward to reserved matters stage these are considered a suitable distance apart and details securing visibility splays could be secured by condition.
- 6.34 Indicative parking is shown on the proposed plans, this would predominantly be tandem parking and no visitor parking is shown. Current parking standards sets out that parking spaces are best provided side by side and tandem parking arrangements are often under-utilised and that visitor parking should be secured at 0.2 spaces per unit in on-street areas. Although not ideal this is not to say that tandem parking could not be utilised to some extent and the finalised layout could seek to ensure an acceptable level of parking and potentially some visitor parking. Due to the outline nature of the application and the plan being indicative the parking could be secured by condition.
- 6.35 The highways officer has also requested cycle parking and details of tracking for refuse vehicles, both matters could be suitably addressed by conditions as part of the approval.
- 6.36 Overall it has been demonstrated that a suitable access could be provided and the addition of 10 new dwellings would not give rise to significant impact on traffic movements to warrant refusal. Other matters relating to highways and parking could be suitably addressed through conditions.

Ecology

- 6.37 The application is accompanied by an ecological report and the contents of which were considered by the KCC Biodiversity Officer as part of the earlier refused scheme. The report has been amended slightly to reflect the reduction in numbers, however the report does suggest that the western boundary hedge would be retained which is contradictory to the arboricultural report and indicative layout.
- 6.38 The contents of the report further highlight the importance of the retention of the hedge or as described in paragraph 4.46 of the report replaced if removed. As such it is considered that providing that the finalised layout either retains or replaces the western boundary hedge the proposal can be considered acceptable on ecological grounds subject to appropriate conditions relating to enhancement.

Other matters

Surface water drainage

- 6.39 The application is accompanied by a drainage strategy which has been assessed by KCC Drainage and no objection is raised subject to a condition.

Public sewer

- 6.40 Southern Water records show that a public sewer dissects the site from the south-east corner, diagonally across the site toward Aspian Drive (approximately in front of no. 14). Southern Water comments have not raised an objection to the proposed scheme but have advised that the exact position of the sewer needs to be ascertained and that a diversion may be necessary. This is a matter that although may inform the future planning layout, it is a matter that would need to be resolved between the applicant and Southern Water rather than making the scheme unacceptable in planning terms.
- 6.41 A condition attached to the consent will ensure that the matters are addressed fully at reserved matters stage.

Affordable Housing

- 6.42 Policy SP20 of the Local Plan relates to Affordable housing. This sets out that development of 11 units or more or sites with a floor area exceeding 1000sq/m require 40% affordable housing.
- 6.43 The proposed development is for 10 units, falling below the 11 threshold set out in policy SP20. The indicative layout suggests a floorspace of approximately 1071sq/m which would consequently exceed the floor area threshold and require the provision of affordable housing. The proposed floorspace is extremely close to the threshold and in the absence of a detailed scheme it may be that the final floorspace may either increase or decrease. As such a condition is considered necessary to secure affordable housing should the reserved matters scheme exceed the 1000sq/m threshold. This would include details which would require details of mix, quatum, tenure etc.

Financial contributions

- 6.44 Policy ID1 of the Local Plan sets out that :
- 'Where development creates a requirement for new or improved infrastructure beyond existing provision, developers will be expected to provide or contribute towards the additional requirement being provided to an agreed delivery programme. In certain circumstances where proven necessary, the council may require that infrastructure is delivered ahead of the development being occupied.'*
- 6.45 These contributions can include Affordable housing, Transport, Open space, Public realm, Health, Education, Social services, Utilities, Libraries, Emergency Services and Flood defences.
- 6.46 Policy DM20 re-iterates these points and sets out that where a need for new community facilities is generated these would be secured through appropriate means.
- 6.47 The NPPG sets out that :
- 'contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area)'*

- 6.48 A contribution request has not been received from KCC as the thresholds set out above are not currently met, together with no request sought from the NHS. A contribution request has been received from the Parks and Open Space officer, but as set out above the indicative floorspace (measured externally rather than internally) would exceed the threshold, but as part of detailed scheme this could increase or decrease. In line with the NPPG and ministerial advice it is not considered that based on the information currently available that a contribution request would meet the necessary tests.
- 6.49 However as the reserved matters application could result in a floorspace of greater than 1000sq/m a condition is considered necessary and reasonable which would set out that should this threshold be exceeded then details of a mechanism to secure the appropriate mitigation would need to be submitted as part of the reserved matters scheme.

7.0 CONCLUSION

- 7.01 The site although being defined as countryside, does not form part of the open countryside and is land locked by existing or proposed residential development and it is not considered that the development would harm the intrinsic character of the countryside which policy and the NPPF seek to protect. It is not considered that the development of the site can be resisted in principle and the applicants have reduced the proposed quantum of development to an acceptable level which would be appropriate for the context of the site. Some concerns still exist about buffer planting along Aspian Drive, however it is considered that these matters could be suitably addressed through the reserved matters submissions. The proposed development would not cause significant harm to neighbouring amenity and would allow for appropriate mitigation regarding landscaping, ecological matters and suitably addresses highways and parking matters and all other matters can suitably be addressed through appropriate conditions and the reserved matters submission.

8.0 RECOMMENDATION

GRANT planning permission subject to the following conditions:

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

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

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

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

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

- (2) Prior to the development above damp proof course level details of all external materials (including wearing surfaces for the roads, turning and parking

areas), shall have been submitted in writing for the approval of the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

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

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

- (4) Prior to development commencing, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall 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 by means such as swift bricks, bat tube or bricks and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals prior to occupation and shall be maintained in perpetuity.

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

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

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

- (6) The details submitted in pursuance of Condition 1 shall show adequate land, reserved for parking or garaging to meet the needs of the development in line with the residential parking standards set out in Appendix B of the Maidstone Borough Local Plan 2017. The approved area shall be provided, surfaced and drained in accordance with the approved details before the buildings are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to this reserved parking area.

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

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

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

- (8) The proposed new access approved pursuant to Condition 1 shall be provided prior to occupation and the area of land within the vision splays shown on the approved plan shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway and be so retained in accordance with the approved plan.

Reason: In the interests of highway safety this is necessary prior to commencement of development.

- (9) Prior to development commencing a scheme for the disposal of (a) surface water and (b) waste water shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained permanently thereafter.

Reason: To prevent pollution of the water environment and to ensure satisfactory drainage in the interests of flood prevention.

- (10) Landscaping details submitted pursuant to condition 1 shall be implemented in the first available planting season following first occupation of the development hereby approved. Any part of the approved landscaping scheme that is dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority. The details relating to landscaping shall include the retention of the hedge along the western boundary or its meaningful replacement and a landscape scheme designed in accordance with the principles of the Council's landscape character guidance. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site replacement planting to mitigate any loss of amenity and biodiversity value and include a planting specification, a programme of implementation and a [5] year management plan.

Reason: In the interests of visual amenity.

- (11) Prior to development commencing full details of tree protection shall have been submitted to and approved in writing by the Local Planning Authority. Any trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a high quality development.

- (12) The details submitted in pursuance of Condition 1 shall include details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved 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.

- (13) Prior to occupation each dwelling shall be provided with an electric vehicle charging point and shall thereafter be retained.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.

- (14) Details pursuant to Condition 1 shall include details of the exact location of the public sewer which may dissect the site and the measures which will be undertaken to protect/divert the public sewers. These details shall be considered in consultation with Southern Water Prior to the commencement of development or in an agreed timescale the approved protection measures/diversion shall be carried out in accordance with the approved details.

Reason : An existing sewer is identified to dissect the site and the details are necessary prior to commencement as this may inform whether the development be implemented.

- (15) Before any building is occupied, details for the storage and screening of refuse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To facilitate the collection of refuse, preserve visual amenity and to reduce the occurrence of pests.

- (16) No development shall take place until details of bicycle storage facilities showing a covered and secure space have been submitted to an approved in writing by the Local Planning Authority. The approved bicycle storage shall be completed prior to occupation of the development and shall thereafter be retained.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety.

- (17) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority.

The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: 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.

- (18) Should the gross internal floor area pursuant to Condition 1 exceed 1000sq/m then the submission pursuant to Condition 1 shall include details of measures to secure affordable housing as part of the development. The details shall include but not be limited to the following :
- (i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 40% of housing units comprising 70/30 mix as set out in Policy SP20 of the Local Plan;
 - (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - (iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
 - (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - (v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The development shall be carried out in accordance with the approved details relating to affordable housing.

Reason : In the interests of securing affordable housing.

- (19) Should the gross internal floor area pursuant to Condition 1 exceed 1000sq/m then the submission pursuant to Condition 1 shall include details of a mechanism to secure mitigation measures as necessary to mitigate the impact of the development in respect of Open space, Public realm, Health, Education, Social services, Utilities and/or Libraries.

Reason : In the interests of appropriate mitigation to offset the impact of the development.

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

Drawing Number 22564A/01 Rev A (Site Location Plan)

Reason: To clarify which plans have been approved.

INFORMATIVES

- (1) The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
- (2) Invasive species
The site has a population of yellow archangel, an invasive non-native species listed on schedule 9 of the wildlife and countryside act 1981 (as amended) which makes it an offence to plant or otherwise cause it to grow in the wild. Planning consent for a development does not provide a defence against prosecution under this act. Measures will need to be undertaken to ensure that the plant is eradicated prior to commencement of development to ensure that no offences may occur.
- (3) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common

law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- (4) Sewer records show the approximate position of a public foul sewer crossing the site. The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised. It might be possible to divert the public sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

Should the applicant wish to divert apparatus:

1. The public foul sewer requires a clearance of 3 metres either side of the sewer to protect it from construction works and allow for future access for maintenance.
2. No development or new tree planting should be located within 3 metres either side of the centreline of the public sewer
3. No new soakaways should be located within 5 metres of a public sewer.
4. All other existing infrastructure should be protected during the course of construction works.

A formal application for connection to the public sewerage system is required 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, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

- (5) Your attention is drawn to the following working practices which should be met in carrying out the development:

- Your attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228: 2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition: if necessary you should contact the Council's environmental health department regarding noise control requirements.
- Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Council's environmental health department.
- Plant and machinery used for demolition and construction should only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- Vehicles in connection with the construction of the development should only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
- The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours is advisable. Where possible, the developer shall provide residents

with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work.

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

- It is recommended that the developer produces a Site Waste Management Plan in order to reduce the volumes of waste produced, increase recycling potential and divert materials from landfill. This best practice has been demonstrated to both increase the sustainability of a project and maximise profits by reducing the cost of waste disposal.

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

If relevant, the applicant must consult the Environmental Health Manager regarding an Environmental Permit under the Environmental Protection Act 1990.

- (6) The applicant is advised to seek pre-application advice prior to the submission of any reserved matters application and the future details should take into consideration the location of the public sewer (in consultation with Southern Water), the provision of buffer planting (in particular the retention/re-enforcement of the landscaping along the western boundary fronting Aspian Drive) and take into consideration the need for residential parking requirements for the occupiers themselves and visitors.

Case Officer: Rachael Elliott

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

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 19th December 2017**

APPEAL DECISIONS:

1. 16/508427

Removal of Condition 2 of planning permission 15/508164/FULL (Erection of 2.4m security fencing to the boundary to replace existing) - Removal of condition for planting of Hawthorn hedgerow

APPEAL: Allowed with conditions

Maidstone Auction Market Detling Aerodrome
Aerodrome Approach
Service Road
Detling
ME14 3HU

(Delegated)

2. 16/505966 & 16/505967

(16/505966) Change of use and conversion of The Railway Tavern to one dwelling; and the erection of a new detached dwelling with parking and landscaping.

(16/505967) Conversion of The Railway Tavern to a dwelling and associated works.

APPEAL: Allowed with conditions

Railway Tavern
Station Road
Staplehurst
TN12 0QH

(Delegated)
