

PLANNING COMMITTEE MEETING

Date: Thursday 27 February 2020
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Adkinson, Brindle, Chappell-Tay, English (Chairman), Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Spooner (Vice-Chairman), Vizzard and Wilby

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 5 March 2020
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 23 January 2020 1 - 8
11. Presentation of Petitions (if any)
12. Deferred Items 9 - 10
13. 19/505680/FULL - Eastfield Barn, Broad Street Hill, Hucking, Kent 11 - 28

Issued on Wednesday 19 February 2020
Over/:

Continued

Alison Broom

Alison Broom, Chief Executive

14.	19/505435/FULL - Buttercups Sanctuary For Goats, Wierton Road, Boughton Monchelsea, Maidstone, Kent	29 - 38
15.	19/506376/FULL - 29 The Landway, Bearsted, Maidstone, Kent	39 - 48
16.	19/503532/OUT - 3-5 Kings Road, Headcorn, Ashford, Kent	49 - 69
17.	19/500200/FULL - Little Paddocks, Stilebridge Lane, Linton, Kent	70 - 83
18.	19/504348/FULL - Land At Rosemead Nursery, Maidstone Road, Headcorn, Kent	84 - 99
19.	Authority from Planning Committee to Serve Enforcement Notices at Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent	100 - 180
20.	19/505949/FULL - Land To Back Of Cherry Orchard, Court Lodge Farm, The Street, Boxley, Kent	181 - 188
21.	19/504613/NMAMD - Land At Brunswick Street, Maidstone, Kent	189 - 191
22.	19/505518/FULL - 12-14 Week Street, Maidstone, Kent	192 - 215
23.	11/1948/FULL - Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent	216 - 261
24.	19/506070/REM - Wind Chimes, Chartway Street, Sutton Valence, Maidstone, Kent	262 - 285
25.	19/504300/FULL - Wierton Hall Farm, East Hall Hill, Boughton Monchelsea, Maidstone, Kent	286 - 301
26.	19/505352/FULL - Land At Rankins Farm, Linton Hill, Linton, Kent	302 - 312
27.	20/500163/FULL - Maidstone And Tunbridge Wells Nhs Trust, Maidstone Hospital, Hermitage Lane, Maidstone, Kent	313 - 329
28.	Appeal Decisions	330 - 333

PART II

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

	Head of Schedule 12A and Brief Description		
29.	Exempt Appendix - Authority from Planning Committee to Serve Enforcement Notices at Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent	5 – Legal Proceedings 6(a)/(b) – Giving of Notices	334 - 349

30. Exempt Appendix - 11/1948/FULL - 5 – Legal Proceedings 350 - 355
Monk Lakes, Staplehurst Road, Marden,
Maidstone, Kent

PLEASE NOTE

Due to the number of items on the agenda, only the following reports will be considered on 27 February 2020:

- 19/505680/FULL Eastfield Barn, Broad Street Hill, Hucking, Kent**
- 19/505435/FULL Buttercups Sanctuary for Goats, Wierton Road, Boughton Monchelsea, Maidstone, Kent**
- 19/506376/FULL 29 The Landway, Bearsted, Maidstone, Kent**
- 19/503532/OUT 3-5 Kings Road, Headcorn, Ashford, Kent**
- 19/500200/FULL Little Paddocks, Stilebridge Lane, Linton, Kent**
- 19/504348/FULL Land at Rosemead Nursery, Maidstone Road, Headcorn, Kent**
Authority to Serve Enforcement Notices at Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent

The remaining reports will be rolled over to the adjourned meeting scheduled to be held on 5 March 2020.

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 reports 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.

PUBLIC SPEAKING AND ALTERNATIVE FORMATS

If you require this information in an alternative format please contact us, call **01622 602899** or email committee@maidstone.gov.uk.

In order to speak at this meeting, please contact Democratic Services using the contact details above, by 4 p.m. on the working day before the meeting (i.e. **Wednesday 26 February 2020**). If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated for each application on a first come, first served basis.

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MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 23 JANUARY 2020

Present: Councillor English (Chairman) and Councillors Adkinson, Brindle, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Spooner, Vizzard, Wilby and Young

Also Present: Councillors D Burton and McLoughlin

184. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Chappell-Tay and Eves.

185. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Young was substituting for Councillor Eves.

186. NOTIFICATION OF VISITING MEMBERS

Councillors D Burton and McLoughlin indicated their wish to speak on the report of the Head of Planning and Development relating to application 11/1948 (Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent).

187. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

188. URGENT ITEMS

The Chairman said that, in his opinion, the update reports of the Head of Planning and Development and any updates to be included in the Officer presentations should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

189. DISCLOSURES BY MEMBERS AND OFFICERS

With regard to the report of the Head of Planning and Development relating to application 11/1948 (Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent), Councillor Spooner said that he had visited the site and, in doing so, he had spoken to some of the objectors and the applicant. He had made it quite clear that he was there to observe and listen and he had made no comments. He was quite confident that he had not pre-determined the application and intended to speak and vote when it was discussed.

Councillors Munford, Parfitt-Reid and Perry made the same disclosure as Councillor Spooner in relation to application 11/1948 (Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent).

With regard to the report of the Head of Planning and Development relating to application 19/504497/FULL (The Wheelwrights, The Green, Boughton Monchelsea, Maidstone, Kent), Councillor Munford said that he was the Chairman of Boughton Monchelsea Parish Council. However, he had not participated in the Parish Council's discussions on the application, and intended to speak and vote when it was considered.

190. EXEMPT ITEMS

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

191. MINUTES OF THE MEETING HELD ON 19 DECEMBER 2019

RESOLVED: That the Minutes of the meeting held on 19 December 2019 be approved as a correct record and signed.

192. PRESENTATION OF PETITIONS

There were no petitions.

193. DEFERRED ITEMS

19/500200/FULL - RETROSPECTIVE APPLICATION FOR A CHANGE OF USE OF LAND TO BE USED AS A GYPSY/TRAVELLER CARAVAN SITE CONSISTING OF ONE PITCH - LITTLE PADDOCKS, STILEBRIDGE LANE, LINTON, KENT

19/501600/OUT - OUTLINE APPLICATION FOR UP TO 440 RESIDENTIAL DWELLINGS, WITH ASSOCIATED ACCESS, INFRASTRUCTURE, DRAINAGE, LANDSCAPING AND OPEN SPACE (ACCESS BEING SOUGHT WITH ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION) - LAND WEST OF CHURCH ROAD, OTHAM, KENT

19/503532/OUT - OUTLINE APPLICATION WITH ACCESS MATTERS SOUGHT FOR DEMOLITION OF TWO EXISTING BUILDINGS AND ERECTION OF FOUR RESIDENTIAL DWELLINGS (MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE ARE RESERVED FOR FUTURE CONSIDERATION) - 3-5 KINGS ROAD, HEADCORN, ASHFORD, KENT

The Major Projects Manager said that he had nothing further to report in respect of these applications at this stage.

194. 11/1948 - PART RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF TWO LAKES KNOWN AS BRIDGES AND PUMA AND WORKS TO CREATE 3 ADDITIONAL LAKES ALL FOR RECREATIONAL FISHING, ERECTION OF CLUBHOUSE BUILDING AND ASSOCIATED WORKS AND

LANDSCAPING - MONK LAKES, STAPLEHURST ROAD, MARDEN,
MAIDSTONE, KENT

All Members except Councillor Harwood stated that they had been lobbied.

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

Ms Lord, a Planning Agent on behalf of a neighbouring resident, Councillor Mannington of Marden Parish Council, Mr Whitehouse, for the applicant, and Councillors McLoughlin and D Burton (Visiting Members) addressed the meeting.

The representative of the Head of Legal Partnership responded to some of the points raised in a further representation received from Ms Lord the previous day.

During the discussion on this application, it was proposed, seconded and:

RESOLVED: That the meeting be adjourned for 15 minutes to enable Members to formulate coherent reasons to substantiate a possible decision to refuse this application.

Voting: 8 – For 2 – Against 2 - Abstentions

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members had regard to the changes to the proposals since the Council's previous assessment in 2012 and, taking into account all considerations including the material consideration of the previous consent and changes to the application since then, considered that:

- (a) The overpowering height and proximity of the new formulation of the landscaping, particularly the western bund, causes less than substantial harm to the setting of the adjacent Grade II listed heritage asset which is not outweighed by an acceptable level of public benefits contrary to paragraph 196 of the NPPF;
- (b) Because of the configuration of the land, in particular the height, there is a loss of residential amenity to the neighbouring buildings to the west of the site contrary to Policy DM4 of the Maidstone Borough Local Plan 2017; and
- (c) The effect on the landscape is contrary to the guidance set out in the Landscape Character Assessment and, in light of the clear views from the footpath KM129, there is a clear harm in that the changed landscape can be clearly viewed from that footpath and other locations.

Prior to the vote being taken, the Principal Planning Officer, on behalf of the Head of Planning and Development, and having previously conferred with the representative of the Head of Legal Partnership, advised the

Committee that the proposed reasons for refusal were not sustainable and could result in significant costs being awarded against the Council at appeal. He was therefore issuing a significant costs warning on all three proposed reasons for refusal.

Members were informed that since a significant costs warning had been issued, if the Committee agreed to refuse permission for the reasons proposed, the decision would be deferred until its next meeting pursuant to paragraph 30.3 (a) of Part 3.1 of the Council's Constitution and paragraph 17 (a) of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters (Part 4.4 of the Constitution).

RESOLVED: That permission be refused for the following reasons:

1. The overpowering height and proximity of the new formulation of the landscaping, particularly the western bund, causes less than substantial harm to the setting of the adjacent Grade II listed heritage asset which is not outweighed by an acceptable level of public benefits contrary to paragraph 196 of the NPPF.
2. Because of the configuration of the land, in particular the height, there is a loss of residential amenity to the neighbouring buildings to the west of the site contrary to Policy DM4 of the Maidstone Borough Local Plan 2017.
3. The effect on the landscape is contrary to the guidance set out in the Landscape Character Assessment and, in light of the clear views from the footpath KM129, there is a clear harm in that the changed landscape can be clearly viewed from that footpath and other locations.

Voting: 8 – For 1 – Against 3 – Abstentions

The Head of Planning and Development confirmed the significant costs warning and deferral of the decision until the next meeting.

DECISION DEFERRED UNTIL THE NEXT MEETING OF THE PLANNING COMMITTEE PURSUANT TO PARAGRAPH 30.3 (a) OF PART 3.1 OF THE COUNCIL'S CONSTITUTION AND PARAGRAPH 17 (a) OF THE LOCAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS (PART 4.4 OF THE CONSTITUTION).

195. 19/503912/FULL - DEVELOPMENT OF THE SITE WITH 302 DWELLINGS, PARKING, ACCESS, AMENITY SPACE, LANDSCAPING AND ASSOCIATED WORKS - LAND AT BICKNOR FARM, SUTTON ROAD, LANGLEY, MAIDSTONE, KENT

All Members except Councillors Brindle, Harwood, Perry and Young stated that they had been lobbied.

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

Councillor Hipkins of Otham Parish Council and Mr Anderson, for the applicant, addressed the meeting.

RESOLVED:

1. That subject to:
 - (a) The prior completion of a legal agreement in such terms as the Head of Legal Partnership may advise to secure the Heads of Terms set out in the report; AND
 - (b) The conditions set out in the report, as amended by the urgent update report, and the additional conditions set out in the urgent update report with the further amendment of amended condition 9 (Biodiversity Management and Enhancement) to include the incorporation of bee bricks and the provision of an on-site reptile receptor site in the south facing buffer to the ancient woodland,

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation (as amended) and as resolved by the Planning Committee.

2. That the details to be submitted pursuant to amended condition 6 (Soft Landscaping) are to be agreed in consultation with the Parish Council and the Chairman, Vice-Chairman and Political Group Spokespersons of the Planning Committee.

Voting: 11 – For 1 – Against 0 – Abstentions

Arising from the discussion on this application, the Chairman undertook to liaise with the Vice-Chairman and Councillor Harwood regarding the inclusion of an item on the agenda for a future meeting of the Committee to consider general highway and pedestrian crossing safety issues associated with the existing roundabout adjacent to this site.

196. 19/504468/FULL - CREATION OF NEW ACCESS ONTO HAMPSTEAD LANE (B2162) FOR THE PURPOSE OF MAINTAINING RECREATIONAL LAND - ACCESS AT LITTLE VENICE COUNTRY PARK AND MARINA, HAMPSTEAD LANE, YALDING, KENT

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

Councillor Brown of Yalding Parish Council and Mr Bailey, for the applicant, addressed the meeting.

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

Voting: 11 – For 0 – Against 0 – Abstentions

Note: Councillor Harwood left the meeting during consideration of this application (8.45 p.m.).

197. 19/504225/FULL - ERECTION OF A REPLACEMENT BARN (REVISED SCHEME TO 19/502397/FULL) - LAND TO THE SOUTH OF THE GABLES, MARDEN ROAD, STAPLEHURST, KENT

The Chairman and Councillors Kimmance, Perry and Wilby stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Dr Bradbury, an objector, and Councillor Buller of Staplehurst Parish Council addressed the meeting.

During the discussion on this application, concern was expressed that the Staplehurst Neighbourhood Plan and, in particular, Policy PW2 had not been addressed in the assessment of the proposal. The Major Projects Manager acknowledged that there had been an omission in not listing the Neighbourhood Plan Policy in the Officers' report. He explained that the Policy considerations ran in parallel with the Local Plan Policies cited and relied upon in the report, and he did not think that the Officers would have come to a different recommendation if they had specifically referenced the Policy as the tests were the same.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report with the amendment of condition 5 (Enhancement of Biodiversity) to refer to hedgehog (not hedgerow) corridors and to add bee bricks to the list of potential biodiversity enhancements.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended condition and to amend any other conditions as a consequence.

Voting: 5 – For 2 – Against 4 – Abstentions

198. 19/504497/FULL - DEMOLITION OF EXISTING COMMERCIAL BUILDING AND ERECTION OF 2 NO. SEMI DETACHED DWELLINGS WITH ASSOCIATED PARKING - THE WHEELWRIGHTS, THE GREEN, BOUGHTON MONCHELSEA, MAIDSTONE, KENT

All Members stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Councillor Smith of Boughton Monchelsea Parish Council addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members had regard to the Conservation Area appraisal and the Cock Street, The Green and The Quarries Conservation Areas Boughton Monchelsea Management Plan 2017 and considered that the proposal by virtue of its scale, massing, width, forward projection, forecourt parking, appearance and lack of adequate landscaping would have a less than substantial adverse impact upon the character and appearance of The Green Conservation Area and the setting of the adjacent listed buildings and in the absence of an acceptable level of public benefit is contrary to paragraph 196 of the NPPF and Policies DM1, DM4 and SP18 of the Maidstone Borough Local Plan 2017.

RESOLVED: That permission be refused for the following reason:

The proposal by virtue of its scale, massing, width, forward projection, forecourt parking, appearance and lack of adequate landscaping would have an adverse impact upon the character and appearance of The Green Conservation Area and the setting of the adjacent listed buildings, contrary to paragraph 196 of the NPPF, Policies DM1, DM4 and SP18 of the Maidstone Borough Local Plan 2017, the Conservation Area appraisal and the Cock Street, The Green and The Quarries Conservation Areas Boughton Monchelsea Management Plan 2017.

Voting: 11 – For 0 – Against 0 – Abstentions

199. 19/505893/FULL - ERECTION OF 2 NO. DWELLINGS WITH ASSOCIATED ACCESS, PARKING AND AMENITY SPACE - LAND TO THE REAR OF 1-3 HIGHLAND ROAD, MAIDSTONE, KENT

All Members except Councillor Young stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Mr Cheek, the applicant, addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to grant permission subject to conditions to be agreed and finalised by the Head of Planning and Development acting under delegated powers. In making this decision, Members considered that the density of the development would not result in significant harm to the character and appearance of the area and that the proposals provided an acceptable level of amenity for future occupiers and would not affect the amenity of the existing neighbours.

RESOLVED: That permission be granted subject to conditions to be agreed and finalised by the Head of Planning and Development acting under delegated powers; the conditions to include but not be limited to biodiversity enhancements (swift bricks/bee bricks etc.) and the incorporation of obscured glazing if appropriate.

Voting: 9 – For 2 – Against 0 – Abstentions

200. 19/503584/FULL - CREATION OF ALTERNATIVE ACCESS ACROSS EXISTING DRAINAGE DITCH WITH IMPROVED DRAINAGE - KINGSBROOKE, CRANBROOK ROAD, STAPLEHURST, TONBRIDGE, KENT

Councillor Perry stated that he had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Councillor Forward of Staplehurst Parish Council addressed the meeting.

RESOLVED: That consideration of this application be deferred for a report, including a plan, from the applicant to be assessed by the Landscape/Arboriculture Officers detailing the tree works required in connection with the proposed development, the number and species involved (both to be lost and replaced) and the timing of the works.

Voting: 11 – For 0 – Against 0 – Abstentions

Note: Councillor Parfitt-Reid left the meeting after consideration of this application (10.15 p.m.).

201. APPEAL DECISIONS

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

RESOLVED: That the report be noted and that the Officers be congratulated on their success at appeal.

202. DURATION OF MEETING

6.00 p.m. to 10.20 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

27 FEBRUARY 2020

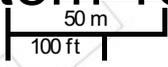
REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

DEFERRED ITEMS

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

APPLICATION	DATE DEFERRED
<p><u>19/501600/OUT - OUTLINE APPLICATION FOR UP TO 440 RESIDENTIAL DWELLINGS, WITH ASSOCIATED ACCESS, INFRASTRUCTURE, DRAINAGE, LANDSCAPING AND OPEN SPACE (ACCESS BEING SOUGHT WITH ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION) - LAND WEST OF CHURCH ROAD, OTHAM, KENT</u></p> <p>Deferred for further discussions to:</p> <ul style="list-style-type: none"> • Seek to remove the proposed car park for the Church from the scheme; • Seek to (a) amend the Parameter Plan to provide a greater amount of wooded open space at the southern end of the site to protect the Ancient Woodland and create a sustainable open space and (b) to amend conditions 4 and 7 to require woodland planting to restore and protect the Ancient Woodland and enhance the landscaping around the Church; • Seek to resolve the outstanding issues relating to improvements to the Willington Street/Deringwood Drive junction; • Give further consideration to the impact of the development on the Spot Lane junction and possible mitigation; • Investigate the potential widening of Church Road to the south of the site where this would not involve the loss of Ancient Woodland; 	<p>24 October 2019</p>

<ul style="list-style-type: none"> • Seek to optimise the amount of renewable energy generated on site (to avoid use of fossil fuel heating); and • Seek further clarification of the surface water drainage scheme and how it can be satisfactorily accommodated within the development layout. 	
<p><u>19/503584/FULL - CREATION OF ALTERNATIVE ACCESS ACROSS EXISTING DRAINAGE DITCH WITH IMPROVED DRAINAGE - KINGSBROOKE, CRANBROOK ROAD, STAPLEHURST, TONBRIDGE, KENT</u></p> <p>Deferred for a report, including a plan, from the applicant to be assessed by the Landscape/Arboriculture Officers detailing the tree works required in connection with the proposed development, the number and species involved (both to be lost and replaced) and the timing of the works.</p>	<p>23 January 2020</p>



19/505680/FULL Eastfield Barn

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REFERENCE NO: 19/505680/FULL		
APPLICATION PROPOSAL: Change of use of land and conversion of existing barn to equine clinic and associated development including erection of stable block, trot-up, menage, paddock areas and associated parking areas, hardstanding and fencing.		
ADDRESS: Eastfield Barn Broad Street Hill Hucking Kent ME17 1QT		
RECOMMENDATION: GRANT planning permission subject to following conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: Proposal would conserve and enhance natural beauty of the AONB; no highway safety objection has been raised; proposal would be acceptable in residential amenity terms; no further ecological information is required prior to determination of application and reasonable biodiversity enhancements are proposed to be incorporated into scheme; no objections are raised in terms of flood risk, surface water/foul disposal and contamination; all other material environmental protection issues have been addressed; and all other material planning considerations have been dealt with. So whilst proposal site is in a remote location, it is accepted that some businesses (given their nature) may have to be found beyond existing settlements and in locations that are not well served by public transport; it has been demonstrated the proposal would not have an unacceptable impact on local roads; and the development is considered to be sensitive to its surroundings.		
REASON FOR REFERRAL TO COMMITTEE: Councillor Garten wishes to see application reported to Planning Committee if minded to recommend approval.		
WARD: North Downs	PARISH COUNCIL: Hucking	APPLICANT Katie Snalune AGENT ACD Projects LTD
TARGET DECISION DATE: 02/03/20		PUBLICITY EXPIRY DATE: 06/02/20

Relevant planning history

- 19/503551 - Demolition of building and erection of equine clinic and associated development including stable blocks, paddocks, menage, lunging pen, parking/hardstanding and fencing – Withdrawn (26.09.2019)
- MA/86/0032 - Erection of farmhouse and double garage/shed - Refused

MAIN REPORT

1.0 Site description

- 1.01 The proposal site (some 1.9ha in area) relates to an irregular shaped parcel of land that is accessed at the northern end of Broad Street Hill, close to the junction with Scragged Oak Road in the parish of Hucking. There is a paddock at the northern end of the site (to be retained), and the rest of the site is agricultural land with an existing agricultural building located close to the western corner of the site. To the north is the Hook and Hatchet Public House, and access to the A249 is some 3.2km from the site by road. There is sporadic residential development in the vicinity of the site; there is a livery to the west of the site (Stanhope Farm); and paddocks and agricultural land is a strong characteristic in the vicinity of the site.
- 1.02 For the purposes of the Local Plan, the proposal site falls within the countryside which is also designated as an Area of Outstanding Natural Beauty (AONB). The eastern boundary is adjacent to Hucking Hill House, Pasture and Woods, Hucking Local Wildlife Site; and the nearest slither of protected Ancient Woodland is more than 60m away from the eastern boundary of the application site. A public footpath (KH145) is found some 45m to the south of the site, running in a general east/west direction; and there is a public footpath (KH142) some 200m to the east of the site that runs in a general north/south direction.

2.0 Proposal

- 2.01 The proposal is for the change of use of the land and for the conversion of the existing building to an equine clinic, and includes associated development such as the erection of a stable block; trot-up; menage; paddock areas; and associated parking areas, hardstanding and fencing. The proposal is effectively re-siting and improving the well-established specialist Equine Clinic that is currently located at Newnham Court, Bearsted, and the day-to-day running is to remain similar to that now in operation. The site shall at no time be used for the private or commercial stabling of horses that do not require medical care from the equine clinic.
- 2.02 The practice is 'first opinion' with patients only in emergency situations, and usually 2-3 patients visit a day with out of hours emergency visits being infrequent. The client base is generally within a 25mile radius of the practice; and what with this site being only some 3miles from the current site, it will be possible to retain the current client base.
- 2.03 Normal hours of operation are from 8am-6pm (Mon-Fri), with staff on the weekends mucking out and staying overnight if necessary. In-patients can be visited between 5pm-6pm on the weekends, and there are also infrequent client talks that can go on to 10pm. The business currently employs 7 vets (5 of which are on site visits all day), 5 nurses (2/3 working at one time); 5 reception staff (2/3 working at one time); a Practice Manager; and a Nursing Manager. It is usual for 8/9 staff to be on site at any one time. The application also explains that in cases of emergency (which in experience happens less than once a month), staff may be required to stay overnight to monitor animals. There are no real overnight facilities, and staff members are expected to stay awake throughout the night, with brief rest caught in between checks on a sofa bed in the staff room. Aspirations are to increase staffing over 2yrs by 10% and the practice plans to employ local people.
- 2.04 The existing vehicle access will be permanently blocked up, and a new access road (laid in tarmac planings) created at the northern end of the site (with passing points); there will be no transport vehicles for horses, as clients provide their own; and close to the main building will be 8 car parking spaces, a long parking/drop-off area, and a lorry parking space. The parking areas will be laid with permeable recycled plastic geo-grid with gravel infill.
- 2.05 The proposed external appearance of the existing building would be of blockwork at lower level and vertical pressure treated T&G Thermowood cladding to the upper section of the walls; and the roof would be of Kingspan QuadCore Trapezoidal composite roofing (grey in colour). The building would provide a reception area; offices; exam room; theatre; pharmacy/laboratory; and staff room. The new timber stable block would be sited to the immediate west of the main building, and with 11 stables and a wash area, it would be linear in form and stand less than 5m in height with its dual pitched roof. A concrete apron would be laid around both buildings. To the immediate south of these buildings would be the menage and trot-up (with all-year round surfacing), both of which would be enclosed by 1.2m high post and rail fencing. The proposal will see the boundary planting retained and enhanced and new tree planting within the site.

3.0 Policy and other considerations

- Local Plan (2017): SS1, SP17, SP21, DM1, DM3, DM8, DM30, DM31, DM41
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Landscape Character Assessment (amended July 2013) and 2012 Supplement (saved sections of LCA and Landscape Guidelines 2000)
- Kent AONB Management Plan

4.0 Local representations

- 4.01 23 representations received raise the following (summarised) issues:
- *Visual impact of proposal on countryside and setting of AONB*
 - *Highway safety/traffic generation/parking provision*
 - *Overdevelopment/commercialisation of site*
 - *Impact upon local residents (including general noise/odours/disturbance)*
 - *Light pollution/ Impact upon biodiversity*
 - *Flood risk/surface water and foul water disposal*
 - *Unsustainable location*
 - *Arboricultural impact*
 - *Increased risk of criminal activity*
 - *Will set precedent for future development in area*
 - *Welfare of horses on surrounding land*
 - *Previous planning application refused on site (MA/86/0032 – see above)*
- 4.02 8 representations supporting application for following (summarised) reasons:
- *Good asset for equine dense community*
 - *Good access to site and no highway safety issues*
 - *Will provide high quality care for horses*

5.0 Consultations

(Please note summaries of consultation responses are set out below with responses discussed in more detail in main report where necessary)

- 5.01 **Councillor Garten:** Wishes to see the application reported to Planning Committee if minded to recommend approval for (summarised) reasons:
- *Previous representation by AONB Unit appear to be still valid and applicable*
 - *Concerned of possible light pollution and no evidence submitted to demonstrate compliance with Institute of Lighting Professionals code of practice*
- 5.02 **Hucking Parish Meeting:** No representations received.
- 5.03 **KCC Highways:** Raises no objection.
- 5.04 **KCC Ecology:** Raises no objection.
- 5.05 **Environmental Protection Team:** Raise no objection.
- 5.06 **Landscape Officer:** Raises no objection.
- 5.07 **Environment Agency:** Raises no objection.
- 5.08 **KCC Flood and Water Management:** Raise no objection.
- 5.09 **Southern Water:** Raise no objection.
- 5.10 **Public Right of Way Officer:** Raises on objection.
- 5.11 **Agricultural Advisor:** Raise no objection.
- 5.12 **Natural England:** Raise no objection.
- 5.13 **Kent Downs AONB Unit:** Do not intend to comment, although from their perspective it is a huge improvement on previous scheme; and they also endorse the Landscape Officer's comments regarding thickening up hedges and ensuring planting species are indigenous and appropriate to local landscape character.
- 5.14 **Kent Police:** Raise no objection.
- 5.15 **Upper Medway Internal Drainage Board:** No representations received.

5.16 **UK Power Networks:** No representations received.

5.17 **Scottish Gas:** No representations received.

6.0 APPRAISAL

Main issues

Maidstone Local Plan

6.01 The Local Plan states development in the countryside will not be permitted unless it accords with other policies in the Local Plan and does not result in harm to the character and appearance of the area. Furthermore, development should be of a high quality design and (inter alia) respond positively to, and where possible enhance, the local and natural character of the area; it should respect the amenity of local residents; respect the topography and respond to the location of the site and sensitively incorporate natural features; it should protect positive landscape/ecological features; be safe in highway safety terms; and provide adequate vehicular parking. In general terms, the Local Plan also seeks to support small scale employment opportunities in appropriate locations to support the rural economy; and as an exception to the general themes of constraint in the countryside, Local Plan policy does allow for commercial equestrian development in the countryside, and the conversion of existing rural buildings, subject to certain criteria.

6.02 The development site is within the AONB and the statutory duty of the local planning authority requires any proposal to have regard for the purpose of conserving and enhancing the natural beauty of this nationally important designation; and great weight should be given to the conservation and enhancement of the Kent Downs AONB.

National Planning policy Framework

6.03 The NPPF is also clear that good design is a key aspect of sustainable development; and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 170 of the NPPF also states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Paragraph 172 of the NPPF also states the following:

Great weight should be given to conserving & enhancing landscape & scenic beauty in AONBs, which have highest status of protection in relation to these issues. Conservation and enhancement of wildlife & cultural heritage are also important considerations in these areas. Scale & extent of development in these designated areas should be limited.

6.04 As set out in the NPPG, it is clear that the scale and extent of development in an AONB should be limited, in view of the importance of conserving and enhancing its landscape and scenic beauty. All development in the AONB needs to be located and designed in a way that reflects its status as a landscape of the highest quality.

6.05 For the purposes of paragraph 172 of the NPPF, planning judgment has taken into account all of the circumstances of the application (in light of its nature, scale and setting) and the site's local context, and this proposal is not considered to be a 'major development', which is to be given its ordinary meaning, as established in *High Court judgement Aston v SoS for Communities and Local Government [2013] EWHC 1936 [Admin]*.

6.06 With planning decisions, the NPPF also seeks to support a prosperous rural economy by enabling: the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and the development and diversification of agricultural and other land-based rural businesses.

Other relevant matters

6.07 Section 85 of the Countryside and Rights of Way Act 2000 places an explicit duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to or so as to affect land in an AONB: *85(1): In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*

6.08 The application site falls within landscape character area 4 (Friningham Downs), as defined in the Landscape Character Assessment. The Landscape is generally open in this area and the overall visibility is considered to be high. The landscape guideline is 'restore and improve' and the relevant summary of actions is as follows:

- Consider generic guidelines for Dry Valleys and Downs
- AONB is nationally important designation with high level development constraint
- Conserve and improve few remaining ancient woodlands
- Conserve and improve network of hedgerows, particularly by planting new hedges along field margins where there are no defined boundaries
- Improve consistency and quality of field boundaries in areas of equestrian grazing
- Increase extent of native tree coverage across areas of intensively cultivated land
- Plant new oak standards within hedgerows to the west, to replace ageing specimens
- Improve rural character of landscape by removing derelict buildings and preventing semi industrial development of land
- Improve scattered farmsteads by encouraging agricultural activity where this is lacking and preventing further large scale development within the landscape.

6.09 The Kent Downs AONB Management Plan does not form part of the statutory Development Plan, but the Council has adopted it and it is a material consideration when assessing any planning application. The AONB Management Plan helps to set out the strategic context for development; it provides evidence of the value and special qualities of this area; it provides a basis for cross-organisational work to support the purposes of its designation; and it details how management activities contributes to its protection, enhancement and enjoyment. In short, its policies seek to conserve and enhance the natural beauty and distinctiveness of the AONB, which is recognised as the primary purpose of designation; and development or changes to land use will be opposed where they disregard or run counter to the primary purpose of Kent Downs AONB.

6.10 The Agricultural Advisor has reviewed the application and accepts that the general functional justification for this purpose-designed development is fully set out in the submission; and it is also accepted that overnight stays in emergency situations is justifiable for the overall scheme.

Location of application site

6.11 The proposal site is in a rural location some 3.2km by road to the A249, and some 7km to the A20 and the junction for the M20; and there are also no public transport links within reasonable walking distance of the site. The site is some 3miles from the current site at Newnham Court.

6.12 The Highways Authority acknowledge the site is remote in nature, with no dedicated footways or other opportunities for the use of sustainable transport within the immediate proximity of the site, and it is accepted that sustainable transport will

have a limited role in meeting the travel demands of the development's future occupants. This does weigh against the proposal, but the NPPF is clear that planning decisions should recognise that sites, to meet local business and community needs in rural areas, may have to be found beyond existing settlements, and in locations that are not well served by public transport. In this instance, the nature of the business is to deal with large animals, where space is required for their best care, including the requirement for stables, a menage and trot-up for medical attention and recuperation, and such practices are characteristically found in countryside locations. In these circumstances it will be important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads. These issues, along with other material planning considerations will now be addressed.

Visual/landscape impact

- 6.13 The submission includes a Tree Survey with Constraints, Impacts and Protection Plan; and a Planting list/Soft Planting Specification/Management Programme. A Landscape Visual Impact Assessment has not been submitted as part of this application, but a Landscape Statement, which comments on the issue of landscape/visual amenity, has.
- 6.14 Within the proposal site, there is a paddock area to the north; agricultural land to the south; and an agricultural building sited close to the north-western corner. Whilst there are no protected trees on, or immediately adjacent to, the proposal site, there are a number of trees within and around the site of some significance. In general terms, the northern and western boundaries of the site consist of mature native hedging/trees; and the eastern and southern boundaries are more open. Existing on the site is low level post and wire fencing.
- 6.15 The submission confirms that the only trees to be lost as part of the proposal will be to create the new vehicle access. This roadside planting (some 6m wide), is not particularly distinctive and the Landscape Officer has raised no specific objection to its loss. No objection to other tree works stipulated in the arboricultural report is raised; and suitable conditions will be imposed to ensure that the development is carried out in accordance with this report, and that an Arboricultural Method Statement is submitted prior to the commencement of any works to safeguard the longevity of existing trees.
- 6.16 The submission shows new mixed native hedging and trees, and post and rail fencing to go along the eastern and southern boundaries; the existing planting along the northern (except for where the new access will go) and western boundaries will be retained and enhanced with new planting; and new native tree planting within the site is also shown. The submission also includes a proposed Soft Plant Specification and Management Programme, and this is acceptable to the Landscape Officer. The proposed hedgerow planting mix is not objectionable, and the Landscape Officer has commented that the proposed tree list does not entirely accord with the Landscape Guidelines for the Friningham Downs landscape character area. However, it is understood that great care needs to be taken with what species should be a planted near horses, and the proposed planting is partly in accordance with the suggested mix, with the addition of Sweet Chestnut. This is considered acceptable in this instance, and landscaping details will be secured by way of appropriate conditions.
- 6.17 This application should be tested against the purpose of the AONB designation, which is to conserve and enhance its natural beauty (in accordance with Local Plan policy and the NPPF). The Friningham Downs landscape character guideline is to *'restore and improve'* the area and breaking this down it shows the sensitivity of the area to be *'moderate'* and its condition to be *'poor'*.

- 6.18 In terms of public views, the site can be seen from Broad Street Hill to the north of the site, although the building cannot be seen from here; from Scragged Oak Road to the west, with glimpses of the building more than 150m away through mature roadside hedgerow; and from the public footpath (KH145) to the south, which at its closest point to the site is some 45m away. These public views are considered to be of short/medium range. The creation of the new vehicle access would give other short range views of the site from the junction of Church Road, Broad Street Hill, and Scragged Oak Road to the north of the site. The existing building would be appropriately refurbished and would remain of the same scale; and the proposed low-level stables and other associated development would be grouped close together with the main building. The stables would not be visible from any public vantage point to the north; and the addition of different surfacing and low-level timber fencing around and across the site would also not appear visually incongruous from any public vantage point. The proposed landscaping scheme would further help to screen the main building, stables and other associated works, by bolstering existing boundary hedging and by introducing new boundary planting along the eastern and southern boundaries that are currently open.
- 6.19 The intrinsic character and beauty of the countryside and AONB should be protected, and it is considered that this proposal would achieve this through reusing an existing building in the landscape, through grouping together new modestly scaled development, and through retaining and enhancing soft landscaping in and around the site. Any potential impacts in terms of external lighting on the intrinsic character of the countryside hereabouts can also be controlled by way of an appropriate condition; and given how the proposed business operates, the increased activity to and from the site is not considered to be adversely harmful in terms of the proposal's impact upon the character of the AONB. Furthermore, with regards to the Maidstone Landscape Character Assessment, given the existing use of the site the proposal would not see the loss of any valuable grassland/woodland; it would conserve and improve the network of hedgerows, including the planting of new hedges; and it would increase the extent of native tree coverage across what is currently agricultural land. The Kent Downs AONB Unit has also raised no specific objection to the proposal and commented that from their perspective, this proposal is a huge improvement on the previously withdrawn scheme; and they endorse the need for enhanced planting that is appropriate to the local landscape character.
- 6.20 With everything considered, the proposal would not weaken the characteristics and qualities of the AONB hereabouts, but rather conserve and enhance its natural beauty in accordance with Local Plan policy and the NPPF.

Highway safety implications

- 6.21 The submission includes a Transport Statement and Technical Notes for Automatic Traffic Counter (ATC) Data and responding to initial comments from the Highways Authority. The Highways Authority has been consulted and their comments are now summarised.
- 6.22 The proposal would see the existing access permanently closed off and this will be secured by way of condition; and details submitted in the Technical Note shows visibility sight lines of 29m are required northbound (towards Hucking), and 28m southbound (away from Hucking). This is acceptable to KCC and to ensure this is implemented, an appropriate condition will be imposed. The Highways Authority is also satisfied that the passing point within the site would reduce the likelihood of reversing manoeuvres onto the adjacent highway is acceptable. As such, no objection is raised to the proposal in terms of access.

- 6.23 The Transport Statement sets out traffic generation, and this is based on the applicant's operations at their existing site, which are anticipated to remain unchanged in respect of modal split and overall staff numbers. Furthermore, an assessment of anticipated traffic generation from the site has been undertaken based upon forecast growth. On review, the Highways Authority state that given the limited number of movements that the proposal is forecast to generate, a highway-based objection on capacity or safety grounds would not be sustainable in this instance.
- 6.24 KCC has also referred to the Personal Injury Collision Record (PIC) for both the location of the proposed access and its immediate proximity, and note during the period in question 2 collisions were recorded, both of which were slight in severity. It is accepted that neither the layout of the highway, or any defects in it, where the cause of any collisions, and as such the area within the immediate proximity of the proposal has a good PIC record.
- 6.25 There are no parking standards for such a use in this location, but on review KCC are satisfied, based on the maximum number of staff that are expected to be on site at one time, is acceptable; and the Highways Authority also confirms that the turning and servicing layout is suitable for the sized vehicles likely to come in to the site.
- 6.26 With everything considered, no objection is raised to the proposal in terms in terms of highway safety. The Highways Authority has suggested a number of conditions relating to the construction phase of the development; and for highway condition surveys to be undertaken, but these are not considered to pass the planning tests of when conditions are reasonable and necessary.

Residential amenity

- 6.27 It is common to find equine uses in the countryside, and in terms of the use of the stables and paddocks, there is no reasonable argument to say that such a use would cause an unacceptable nuisance to any local resident when enjoying their property. Similarly, activity within the main building is not considered to be a 'noisy' use and again no reasonable objection can be made. With regards to vehicles coming and going from the site, given the modest staff numbers on site at any one time; the expected low number of customers each day; the opening hours for customers; and the separation distances from the application site to any residential property, it is not considered that this element of the proposal would have an adverse impact upon the amenity of any local resident in terms of general noise and disturbance (even in the case of out of hours emergencies that are far and few between).
- 6.28 The Environmental Protection Team has also raised no objection in terms of noise, odour, flies, and lighting, but do recommend that the equine clinics opening hours are restricted by condition; and that details regarding external lighting should be submitted for approval by way of condition. To safeguard the amenity of the countryside and local residents, this is considered reasonable. Furthermore, details will be requested for approval regarding manure and other waste storage/disposal; and no manure or waste materials will be permitted to be burned on the application site.

Biodiversity implications

- 6.29 The submission includes a Preliminary Ecological Appraisal Report; a Great Crested Newt Survey; a Bat Survey; a Reptile Survey; and a further written response to the Biodiversity Officer's initial comments.

- 6.30 Natural England has raised no objection to the proposal and the Biodiversity Officer's comments are now summarised. On review of the submitted details, it is advised that a good overview has been given and sufficient information has been provided to determine the planning application. In short, the submitted information has detailed the following:
- *Breeding population of Common lizards present within site*
 - *Suitable habitat for nesting birds*
 - *Barn may be used by barn owls*
 - *Hedgerows and Scrub may be used by dormouse*
 - *Potential for badger sett to be present within SW boundary*
 - *Trees on site have high potential to be used by roosting bats*
 - *Site adjacent to Huckling Hill House, Pasture & Woods, Huckling LWS*
 - *There is no evidence GCN present within ponds in 100m radius of site*
 - *There are at least 3 species of bats foraging within site*
- 6.31 Given the low numbers of Common lizards recorded, the Biodiversity Officer is satisfied that the proposed mitigation (that a reptile receptor site will be created within the north of the site) is appropriate; and a suitable condition will be imposed to ensure this mitigation is carried out. As Barn owls were not recorded and assessed during the bat emergence survey, it is unlikely that barn owls are present within the building; and the submission confirms that no evidence of badgers were recorded and so it is unlikely that a badger sett is present along the southern boundary of the site. The Biodiversity Officer is satisfied with these conclusions and no further information is required in this respect.
- 6.32 The Biodiversity Officer is also satisfied with the conclusions of the bat survey, in that bats are unlikely to be roosting within the buildings and the trees are to be retained, and so no further details are required. Furthermore, it is considered that the proposal will not result in a direct loss of the adjacent LWS and nor will it have a significant impact on it. Notwithstanding this, The Biodiversity Officer does recommend for lighting to be sensitively designed so as to not have a harmful impact upon bats and the LWS, and this will be incorporated into an appropriately worded lighting condition.
- 6.33 One of the principles of the Local Plan and the NPPF is that "*opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity*". The application confirms the following enhancements/mitigation will be incorporated in to the site, and the Biodiversity Officer is satisfied that this is appropriate: Planting and infilling of native hedgerows; wildflower meadow creation; log piles; a barn owl box; bird and bat boxes; and an integrated bat box. To ensure the habitat and features are managed properly in the long term, the Biodiversity Officer also advises that a management plan is produced to demonstrate how the site will be managed. This is considered reasonable and such a condition will be duly imposed.

Flood risk, surface water/foul disposal and contamination

- 6.34 The submission includes drainage plans; a Soil Investigation letter; a Flood Risk Assessment (FRA); and a Foul and Surface Water Drainage Strategy.
- 6.35 The Environment Agency (EA) has reviewed the application and raises no objection to the Proposal subject to recommended conditions regarding land contamination; restricting infiltration of surface water drainage into the ground; and requesting details of a foul drainage strategy. The Environmental Protection Team has also raised no objection to the proposal in terms of land contamination, subject to an appropriate condition (given the previous agricultural use of the site); and has

equally requested further details regarding the proposed method of foul sewage treatment. The recommended conditions are considered reasonable and will be duly imposed.

- 6.36 As recommended by the Environmental Protection Team, appropriate conditions will also be imposed requesting details regarding: the means of manure storage prior to its disposal and the method of disposing of faecal, bedding or other waste arising from the animals housed; and a scheme for the disposal of run-off from stables, hardstandings, manure heaps, stable washings and hay soaking areas.
- 6.37 The KCC Flood and Water Management Team regards the proposal as low risk and has raised no objection in terms of surface water disposal. Southern Water raise no objection but do comment that it is possible a sewer now deemed to be public could be crossing the development site. If any sewer is found during construction works, further advice should be sought from Southern Water before any further works commence on site.

Other matters

- 6.38 Whilst the Environmental Protection Team has raised no objection to the proposal in terms of air quality, they do recommend the provision of electric vehicle charging points for low-emission plug-in vehicles. In accordance with Local Plan policy, and in the interests of sustainability a suitable condition will be imposed for the provision of an operational electric vehicle charging point for low-emission plug-in vehicles.
- 6.39 The KCC Public Rights of Way Officer confirms that a public footpath (KH145) runs along the southern boundary of the site and that it should not affect the application, and so no further action will be taken on this issue. The proposal will not result in the loss of best and most versatile agricultural land.
- 6.40 Kent Police has reviewed the application in accordance with Crime Prevention Through Environmental Design (CPTED) and the NPPF. On their advice, a suitable informative will be added to advise the applicant to discuss the development with the police, with regards to CPTED.
- 6.41 In terms of the spread of diseases to other horses in the locality, the application makes it clear that this issue is taken very seriously and any infectious disease risk is isolated accordingly. It has also been pointed out that in the past 6yrs, 99.9% of isolation cases are those with diarrhoea and not upper airway infectious respiratory diseases, so such a risk is very low.
- 6.42 The issues raised by Councillor Garten and the local representations have been considered the assessment of this application. It should be noted here that potential criminal activity in the future is not a material planning consideration; and a precedent will not be set for further development in the area, as each proposal must be considered on its own merits. Furthermore, no weight is given to a planning refusal for a house that was determined in 1986, as again each application must be considered on its own merits against current policy/guidance.
- 6.43 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.
- 6.44 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant

details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Conclusion

- 6.45 The proposal would conserve and enhance the natural beauty of the AONB; no highway safety objection has been raised; the proposal would be acceptable in residential amenity terms; no further ecological information is required prior to the determination of this application and reasonable biodiversity enhancements are proposed to be incorporated into the scheme; no objections are raised in terms of flood risk, surface water/foul disposal and contamination; all other material environmental protection issues have been addressed; and all other material planning considerations have been dealt with. So whilst the proposal site is in a remote location, it is accepted that some businesses (given their nature) may have to be found beyond existing settlements and in locations that are not well served by public transport; it has been demonstrated that the proposal would not have an unacceptable impact on local roads; and the development is considered to be sensitive to its surroundings. A recommendation is therefore made on this basis.

7.0 RECOMMENDATION: GRANT planning permission subject to following conditions:

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

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

2. The external materials of the main building and the hardsurfacing hereby approved shall be carried out in accordance with the details as shown on drawing references: 1260_P_003 P04 and 1260_P_021 P04 and maintained as such thereafter.

Reason: To safeguard the character and appearance of the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty.

3. Prior to the first use of the development hereby approved, details of hard boundary treatments to be used (including entrance gates) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained as such thereafter; and no other fencing, walling and other hard boundary treatments shall be erected in or around the site.

Reason: To safeguard the character and appearance of the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty.

4. The development hereby approved shall be carried out in accordance with the submitted landscaping scheme, as shown on drawing ref: 1260_P_003, and the submitted Plan List, Soft Planting Specification, and Management Programme, and all planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the first use of the site. Any planting which fails to establish, or any trees or plants which, within ten years from the first use of the site, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

Reason: To safeguard the longevity of retained trees and to safeguard the character and appearance of the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty.

5. The development hereby approved shall be carried out in accordance with the submitted Tree Survey: Constraints, Impacts and Protection Plan (Philip Wilson Arboriculture: Ref: 200104 - 13 January 2020).

Reason: To safeguard the longevity of retained trees and to safeguard the character and appearance of the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty.

6. Prior to commencement of the development hereby approved, and in accordance with the recommendations set out in the submitted Tree Survey: Constraints, Impacts and Protection Plan (Philip Wilson Arboriculture: Ref: 200104 - 13 January 2020), an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the local planning authority. The AMS shall include:

- i) details of new vehicle access construction and location of adjacent trees and their root protection areas to be retained
- ii) details of 'no-dig' construction within the root protection areas of the identified Turkey Oak (T7); English Oak (T1); and Common Ash (T2)

The development shall be carried out in accordance with the approved AMS and maintained as such thereafter.

Reason: To safeguard the longevity of retained trees and to safeguard the character and appearance of the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty. Details are required prior to the commencement of development in order to demonstrate that the identified root protection areas conflicts can be satisfactorily ameliorated.

7. Prior to the first use of the development hereby approved, an ecological enhancement strategy (detailing what enhancements and mitigation are going to be implemented and where and how); and a long-term management plan, shall be submitted to and approved in writing by the local planning authority. The details shall include the following;

- i) planting and infilling of native hedgerows;
- ii) wildflower meadow creation;
- iii) provision of log piles;
- iv) provision of barn owl box;
- v) provision of bird and bat boxes;
- vi) provision of integrated bat box.

The development shall be carried out in accordance with the approved details and all features shall be retained in that manner thereafter;

Reason: In the interests of biodiversity enhancement and ensure the habitat and features are managed properly in the long term.

8. Prior to the commencement of any works on site, the reptile mitigation must be implemented as detailed within the Reptile Survey and Mitigation Strategy (KB Ecology; November 2019), and this mitigation must only be carried out during the active reptile season (April to September approx.).

Reason: To safeguard protected species.

9. Prior to the first use of the development hereby approved, details of an external lighting scheme, whether temporary or permanent and including any proposed lighting for the menage, shall be submitted to and approved in writing by the local planning authority. The submitted details shall include times of operation and shall refer to the 2005 Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles), and an ISO lux plan showing light spill. The submitted details also need to demonstrate that bats and the adjacent Local Wildlife Site will not be adversely impacted upon as a result of the development hereby approved. The lighting scheme shall be installed, maintained and operated in accordance with the approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty, to safeguard the amenity of local residents, and to safeguard protected species.

10. Prior to the first use of the development hereby approved, details of a scheme for the disposal of run-off from stables, hardstandings, manure heaps, stable washings and hay soaking areas shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained as such thereafter.

Reason: To avoid potentially contaminated water from manure storage.

11. Prior to the first use of the development hereby approved, details of a foul drainage strategy, shall be submitted to and approved in writing by the local planning authority. These details shall include how the developer intends to ensure that appropriate foul drainage is implemented; the size of any individual cesspools and/or septic tanks and/or other treatment systems; and their locations on site plus any pertinent information as to where each system will discharge to. The development shall be carried out in accordance with the approved details and maintained as such thereafter.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution.

12. Prior to the first use of the development hereby approved, details of the means of manure storage and the method of the disposal of faecal, bedding, or other waste arising from the animals housed on site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained as such thereafter.

Reason: In the interests of residential amenity.

13. The development hereby approved shall not involve the infiltration of surface water drainage into the ground.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants.

14. No manure or waste materials shall be burned upon the land within the application site.

Reason: In the interests of residential amenity.

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

1) A preliminary risk assessment which has identified:

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

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

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

The scheme shall thereafter be implemented as approved;

Reason: In the interests of public health and to ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. Details are required prior to the commencement of development as groundworks are necessary to adhere to the condition.

16. Prior to the first use of the development hereby permitted, a Land Contamination Closure Report shall be submitted to and approved in writing by the local planning authority that shall include full verification details as set out in the approved Remediation Method Statement. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean and the scheme shall thereafter be implemented as approved.

Reason: In the interests of public health and to ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.

17. The visibility splays of the approved vehicle access shall be carried out as shown on drawing reference: 47577/5501/001 Rev A prior to the first use of the development hereby approved. The visibility splays shall be maintained in accordance with the approved drawing and kept free of obstruction above 0.6m at any time;

Reason: In the interests of highway safety.

18. The site shall only be used as an equine clinic, as described in the application, and shall at no time be used for the private or commercial stabling of horses that do not require medical care from the equine clinic.

Reason: In the interests of residential amenity and to prevent the intensification of the use on the site.

19. No customers shall be permitted to be on the premises outside of the hours of 08:00 and 18:00 Monday to Friday; and outside the hours of 17:00-18:00 on Saturdays and Sundays, except for emergencies and client educational talks between the hours of 18:00-22:00 for no more than four times a calendar year;

Reason: In the interests of residential amenity.

20. Prior to the first use of the site hereby approved, a minimum of one operational electric vehicle charging point for low-emission plug-in vehicles shall be installed and shall thereafter be retained and maintained for that purpose;

Reason: To promote reduction of CO2 emissions through use of low emissions vehicles.

21. Prior to the first use of the site hereby approved, the existing vehicle access from Broad Street Hill shall be closed off and it shall permanently cease to be used as an access at any time.

Reason: In the interests of highway safety.

22. The vehicle parking spaces, and vehicle loading and turning facilities shown on the submitted plans shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

23. Notwithstanding the approved drawings and the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), no development permitted under Schedule 2, Part 2, Class B shall be carried out.

Reason: In the interest of highways safety.

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

1260_P_001 P04; 1260_P_006 P04; 1260_P_003 P04; 1260_P_021 P04;
1260_I_007 I02

Stable building elevations and floor plans: CB8 7SG Rev 05 (x5 plans)

Design and Access Statement (dated Nov 2019)

Transport Statement (dated Oct 2019)

Technical Note: Automatic Traffic Counter Data (dated Nov 2019)

Technical Note: Response to KCC (dated Dec 2019) and drawing reference:
47577/5501/001 Rev A

Flood Risk Assessment (dated Nov 2019)

Foul and Surface Water Drainage Strategy (dated Jan 2020)

Soil Investigation Letter (dated 21/01/2020)

Drawing references: 1260_P_035 P04; 7999-C-100-01 P1; 799-C-110-01 P1; & 7999-C-110-02 P1

KB Ecology letter dated 20th January 2020
Preliminary Ecological Appraisal Report (updated 11/11/19)
Great Crested Newt Survey (dated 16/07/19)
Bat Survey (dated 09/08/19)
Reptile Survey and Mitigation Strategy (dated 11/11/19)

Tree Survey: Constraints, Impacts and Protection Plan (dated: 13/01/20)
Landscape Statement (dated: Oct 2019)
Planting List/Soft Planting Specification/Management Programme

Letter regarding structural integrity of existing building (dated: 22/01/20)

Reason: For the avoidance of doubt.

INFORMATIVES:

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. 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>
2. The County Council has a controlling interest in ensuring that the footpath is maintained to a standard suitable for use by pedestrians. Any maintenance to the higher level required for continuous motorised vehicular access would be the responsibility of the relevant landowners. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:
 - The applicant pays for the administration costs
 - The duration of the closure is kept to a minimum
 - Alternative routes will be provided for the duration of the closure.
 - min of 6wks notice is required to process applications for temporary closures.

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent. The successful making and confirmation of an order should not be assumed.

3. Should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119), www.southernwater.co.uk or by email at developerservices@southernwater.co.uk.
4. In accordance with Crime Prevention Through Environmental Design (CPTED), the applicant is advised to discuss the proposed development with the Kent Police about how to show a clear audit trail for Design for Crime Prevention and Community Safety.
5. Manure should be stored at least 10m away from any watercourse and sited in accordance with the Code of Good Agricultural Practice for the protection of Waters in order that there is no risk of polluting run-off entering either ground or surface waters and causing pollution. It should be noted that any containers for the storage of animal waste should be sheeted to prevent nuisance from odour and/or flies. In addition, waste should be accumulated for a minimal time only before disposal and should be stored at a location on site which will minimise the likelihood of nuisance being caused to neighbours.
6. The applicant is referred to a copy of the Environment Agency's Pollution Prevention Guidelines, PPG24 Stables, Kennels & Catteries, available on the Agency's website.
7. If the applicant intends to transport any of the animal waste from the site they should contact the Environment Agency to determine the requirement for a Waste Carriers Licence. Similarly, if the applicant intends to spread any of the waste to land they should also contact the EA with regard to whether an Exemption from the Waste Management Licensing Regulations is required.
8. 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 Team.
9. The Environment Agency has given the following advice and the applicant is advised to contact them directly for further assistance:
 - Drainage may be restricted in a source protection zone and this site overlies a SPZ3. Developers should check the .Gov website for Binding Rules information for small scale non mains discharges.
 - Treated discharges to ground may require an Environmental permit.
 - Stables can produce highly polluting run-off from contaminated yards, manure heaps, stable washing and hay soaking. Such run-off should be directed to a foul sewer, or sealed effluent tank. The applicant should refer to Pollution Prevention Guidance and NetRegs for further advice:
<http://www.netregs.org.uk/environmental-topics/waste/managing-waste-materials/horse-manure/horse-manure/>
 - It is advised that some drainage from the equine unit may need to pass into sealed cess tanks for subsequent removal. Domestic type effluents may be suitable to disperse via a septic tank or package treatment plant to field drainage, but this will need confirmation.
10. The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Case Officer: Kathryn Altieri

PLANNING APPLICATION : 19/505680/FULL

- Kent County Council, as the Lead Local Flood Authority, has reviewed the Foul and Surface Water Drainage Strategy and whilst no objection continues to be raised, an additional (precautionary) condition for this planning application has been recommended:

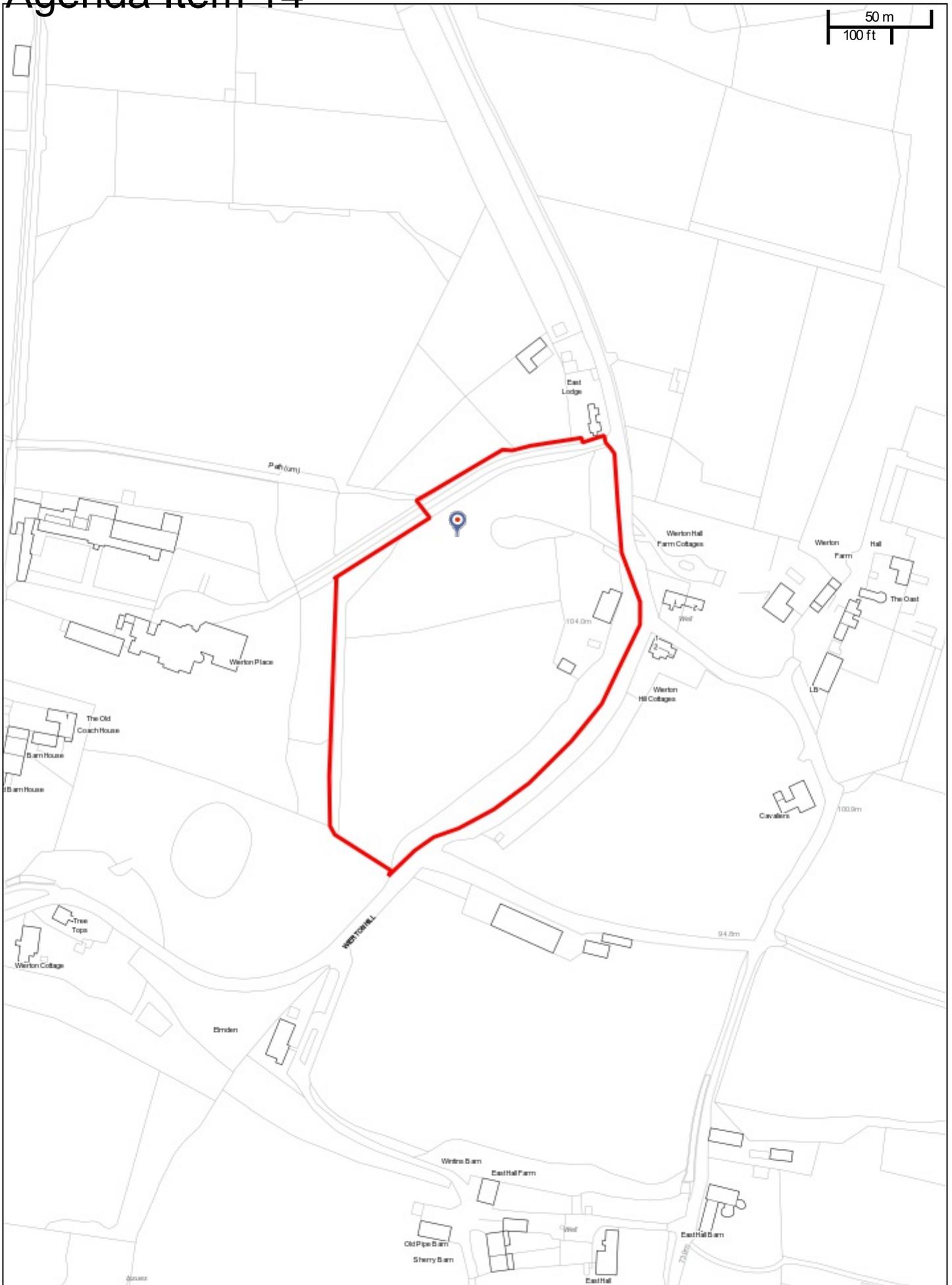
Prior to the commencement of the development hereby approved, a sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The drainage scheme shall be based upon the submitted Foul and Surface Water Drainage Strategy (date: Jan 2020 by Barter Hill Consulting Engineers), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.*
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.*

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

With the imposition of this additional condition, the recommendation remains unchanged

Agenda Item 14



50 m
100 ft

REFERENCE NO: 19/505435/FULL		
APPLICATION: Retrospective application for continued use of land as a goat sanctuary and associated operational development, including stable buildings, tea room, sheds and car park.		
ADDRESS: Buttercups Sanctuary For Goats Wierton Road Boughton Monchelsea ME17 4JW		
RECOMMENDATION: GRANT planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The development does not cause unacceptable harm to the character and appearance of the countryside that falls within the Greensand Ridge Landscape of Local Value; and policy/guidance seeks to support small scale businesses to benefit the rural economy. Furthermore, there is no objection to the development on residential amenity, highway safety, ecology, heritage, and arboricultural grounds; and all other material planning considerations have been addressed.		
REASON FOR REFERRAL TO COMMITTEE: Councillor Munford and Boughton Monchelsea Parish Council wish to see application reported to Planning Committee.		
WARD: Boughton Monchelsea & Chart Sutton	PARISH Boughton Monchelsea	APPLICANT: Buttercups Sanctuary for Goats AGENT: DHA Planning
TARGET DECISION DATE: 03/03/20		PUBLICITY EXPIRY DATE: 02/01/20

- There is no relevant planning history.

MAIN REPORT

1.0 Site description

- 1.01 The application site is a registered charity that operates as an animal sanctuary and is a centre to raise awareness to animal care and welfare. The site is also used for training and educating the public in animal husbandry, and members of the public do visit the site and can make financial donations if they wish. For the purposes of the Maidstone Local Plan the application site is within the countryside that falls within the Greensand Ridge Landscape of Local Value. The site also falls within a KCC Minerals Safeguarding Area; a public right of way (KM120) runs through the northern part of the site in a general east/west direction; and it is some 2.3ha in area.
- 1.02 Access to the sanctuary is via a lane that also serves Wierton Place; and a house, known as East Lodge, is located on the corner of this lane and Wierton Road. Across the road from the application site (to the east), there are of other Grade II listed properties (Wierton Hall Farm Cottage and Wierton Hall).
- 1.03 To the west of the site is Wierton Place that is a Grade II listed building and its associated greenhouses that are also Grade II listed. On this site, there is permission for residential development that includes the conversion of the main building.

2.0 Proposal

- 2.01 This retrospective application is for the continued use of the land as a goat sanctuary and for the retention of the associated operational development on the site, including the single storey stable buildings, the tearoom, sheds and the car park.
- 2.02 Staff/volunteers are on site every day for the needed care of the goats between 8am-5pm every day (and outside these hours in cases of emergencies). There is no entrance fee into the sanctuary and the opening hours to visitors are as follows:

Easter through to October	=	Site open every day 11am-4pm
November up to Easter	=	Site only open at weekends 11am-3pm
Work shops for youth groups	=	6pm-7pm (no more than 10 times a year)

- 2.03 In summary, there is a gravel surfaced car park next to the northern entrance of the site that can accommodate approximately 45 cars; and the tearoom and the main stabling/storage buildings are located close to the eastern boundary of the site, along with the hay store and manure heap. The site is dominated by pastureland where the goats graze. The tearoom serves beverages and snacks, merchandise, and animal feed for visitors.
- 2.04 In terms of its use, Buttercups has been a registered charity since 2003 and there are around 150 goats at the sanctuary, with over 125 goats in foster homes. The sanctuary has 2 part-time and 7/8 full-time members of staff; and around 65 volunteers that help out. The charity also relies on income from adoption and guardian schemes; walking with goats' experiences; goat keeper experiences; and corporate memberships. As well this, the sanctuary undertakes outreach work with the local community (including with schools, Guides, Scouts, and the Duke of Edinburgh Scheme); and it plays an important and pioneering role for research at the University of Roehampton.

3.0 Policy and other considerations

Maidstone Local Plan (2017): SS1, SP17, SP21, DM1, DM3, DM4, DM8, DM30, DM37
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Landscape Character Assessment & Supplement (2012 amended 2013)
Landscape Capacity Survey (2015)
Maidstone Economic Development Strategy (2015-2031)
Maidstone Destination Plan (2015)

4.0 Local representations

- 4.01 296 representations received in support of the application.
- 4.02 5 representations received raising the following (summarised) issues:
- *Impact on residential amenity of local residents in terms of general noise and disturbance, traffic, and odours*
 - *Opening hours should be restricted*
 - *Visual impact and impact upon trees*
 - *Litter*
- 4.03 The Rt Hon Ann Widdecombe (a patron of Buttercups) has made representations in strong support of application.
- 4.04 Helen Whately MP has received letters and wants to say how well loved and what a community asset Buttercups is.
- 4.05 Councillor Brice has made representations in strong support of the application.

5.0 Consultation responses

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

- 5.01 **Councillor Munford:** Wishes to see application reported to Planning Committee for the following (summarised) reasons:
- *Given amount of local and national interest generated, decision should be made in public*
 - *Contribution to tourism both within immediate area and nationally*
 - *It is a local rural business – with rural employment*
 - *All issues need to be balanced in final decision along with any conditions imposed that could possibly inhibit normal operation of sanctuary, even on approved recommendation*

- 5.02 **Boughton Monchelsea Parish Council:** Wish to support application and see it reported to Planning Committee for decision. Would also like to see the following measures introduced to help towards moderating, as far as practically possible, any disturbance to local residents:
- *Creation of screen by fencing off corner of car park and planting with coniferous trees or, if possible, a more sustainable quick growing alternative given our commitment as a parish to biodiversity improvements.*
 - *Installation of additional sign at site entrance explaining goats may be stressed by noise and asking visitors to be considerate and quiet throughout their visit.*
- 5.03 **KCC Highways:** Raises no objection.
- 5.04 **KCC Ecology:** Raises no objection.
- 5.05 **Environmental Protection Team:** Has no objection re: noise, odour and lighting.
- 5.06 **Conservation Officer:** Raises no objection on heritage grounds.
- 5.07 **Landscape Officer:** Raises no objection.
- 5.08 **Environment Agency:** Has made no representations.
- 5.09 **KCC SUDS:** Regard development as low risk development and raise no objection.
- 5.10 **Southern Water:** Raise no objection.
- 5.11 **Public Right of Way Officer:** Raise no objection.
- 5.12 **KCC Minerals Safeguarding Officer:** No representations received.
- 5.13 **Agricultural Advisor:** Application does not fall within agricultural advisory remit.
- 5.14 **Natural England:** Raise no objection.
- 5.15 **Upper Medway Internal Drainage Board:** No representations received.
- 5.16 **MBC Culture/Tourism Team:** Expresses support for application.
- 5.17 **Kent Police:** Has no comment to make, in regard to *Crime Prevention Through Environmental Design* and in accordance with NPPF.
- 5.18 **UK Power Networks:** No representations received.
- 5.19 **Scottish Gas:** No representations received.

6.0 APPRAISAL

Main issues

- 6.01 The Local Plan states development in the countryside will not be permitted unless it accords with other policies in the Local Plan and does not result in harm to the character and appearance of the area; and the distinctive landscape character of the Greensand Ridge Landscape of Local Value should be conserved and enhanced. Furthermore, development (inter alia) should respond positively to, and where possible enhance, the local, natural or historic character of the area; it should respect the amenity of local residents; respect the topography and respond to the location of the site and sensitively incorporate natural features; be safe in highway safety terms; and provide adequate vehicular parking. In general terms, the Local Plan also seeks to support small scale employment opportunities and existing economic development premises in the countryside (including tourism related development) to support the rural economy, provided the scale and impact of the development is appropriate for its countryside location.

- 6.02 In accordance with the NPPF, achieving sustainable development means the assessment of three overarching objectives (economic, social and environmental); and at the heart of the Framework is a presumption in favour of sustainable development, of which good design is a key aspect. The NPPF also seeks to enable sustainable rural tourism and leisure developments which respect the character of the countryside; and planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. The NPPF also seeks to conserve and enhance the historic environment.
- 6.03 The goat sanctuary is in a rural location, some 2.7km to the west of Sutton Valence (a 'larger village' for the purposes of the Local Plan) and some 5.5km to the south of Maidstone town centre; and it is accepted that the majority of visitors would arrive by private motor vehicle. However, whilst it is not possible for this local charity to make the location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport), it does undertake outreach programmes in the local community, visiting schools, the Guides and Scouts for example. Furthermore, the NPPF states planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, and does not have an unacceptable impact on local roads. These issues, along with other material planning considerations will now be addressed.

Importance of tourism use on site

- 6.04 The Council's Culture/Tourism Team has expressed strong support for the sanctuary. Indeed, they have commented that Buttercups is a unique and small charity that provides a valuable component part to the local tourism industry. Indeed, it makes a great morning or afternoon visit for a family and because entry is free and they ask for donations towards the goats living expenses, nearly every family wants to make a donation. This makes the attraction accessible to all families particularly disadvantaged ones, as their visit does not depend on their income. Nearly every family has a budget for their holiday and this helps make valuable family time together both for visitors and local people. Refreshments available in the tearoom add a vital part to welcoming visitors and the car park is needed to ensure everyone's safety. Besides the day to day running of the site, development of the tourism product with goat walk experiences, is adding to the appeal of Buttercups into a new market, which is encouraging for visitors wanting to find new and unique experiences. Beyond the basic tourism product is also the community contribution made by volunteers, which is offering much needed services and support on a mental health level combatting loneliness, depression and many other features. It also provides visitors with a chance to meet and talk to local people which is becoming a valued and unique part of tourism visits.

Visual impact

- 6.05 The proposal is within the countryside that falls within the Greensand Ridge Landscape of Local Value. For the purposes of the Maidstone Landscape Character Assessment the majority of the site falls within the Linton Greensand Ridge landscape character area, with the northern tip of the site (above the public footpath) falling within the Boughton Monchelsea to Chart Sutton Plateau landscape character area. The guidelines for the Linton Greensand Ridge landscape character area are to 'conserve' the landscape that is considered to have an overall sensitivity of 'high'.

- 6.06 The buildings are grouped together and sited close to the eastern boundary of the site; they are low level and modest in appearance; and are of a traditional design. The car park is sited close to the existing buildings and laid in gravel with a modest vehicle entrance through the established boundary hedge; the fencing is largely low-level timber post and rail fencing; and undeveloped pastureland, interspersed with mature trees, dominates the site. Given the mature boundary planting around the site, there are limited (if any) public views of the site from Wierton Road, Wierton Hill, and E Hall Hill. The main public view of the development is from the public footpath that runs a short distance along the northern edge of the site. Given how well contained the site is, there are considered to be no harmful medium/long range public views of the built form on the site. Given the well established, mature planting in and around the site, it is not considered necessary to request further planting in this instance.
- 6.07 In accordance with Maidstone's Landscape Character Assessment, the development has in some way conserved the characteristic parkland type landscapes within the Greensand Ridge; it has conserved the sense of enclosure and the small-scale field pattern; it has not harmfully impacted upon the rural setting of surrounding traditional buildings; and it is considered that the site has largely conserved the undeveloped character of the landscape.
- 6.08 With this all considered, this small-scale development has satisfactorily integrated into the local landscape, and it has not resulted in unacceptable harm to the character and appearance of the area, but conserved the distinctive landscape character of the Greensand Ridge Landscape of Local Value.

Residential amenity

- 6.09 The keeping of goats on the site is not considered to result in a level of noise and odour that would be any more harmful than what could be experienced across the countryside on other sites where animals are kept/grazed. In terms of visitors coming and going from the site, it is accepted that a certain amount of general noise and disturbance is generated from vehicles and staff/visitors coming and going. However, the main access into the site is not in the vicinity of any property and their immediate garden space; the site is well enclosed by mature planting that blocks some noise; the houses to the east are separated by a road; the car park/buildings are more than 100m from Wierton Place; and the garden area for East Lodge is away from the sanctuary. It is therefore considered that this level of noise and disturbance is not considered to be so harmful to object the development, and by restricting staff/visitor hours, this will safeguard the amenity of local residents for the future. The Environmental Protection Team has also raised no objection in terms of noise, odour, and dust; and they make the point that over the years no complaints have been made to them regarding noise, lighting, and odours. Furthermore, it should be noted that the sanctuary is pro-active in having signage reminding visitors to respect local residents; and on the request of Boughton Monchelsea Parish Council, an informative will be added to advise the applicant for more signage to explain goats may be stressed by noise and to remind visitors to be considerate and quiet throughout their visit. Given the scale and location of the buildings on the site, no other objections are raised in terms of the development having an unacceptable impact upon the amenity of local residents in terms of loss of privacy, loss of light/outlook, or by being overbearing.
- 6.10 The agent has confirmed that there is no burning of the manure heaps on site; and external lights are only used when putting livestock into their pens of an evening, and no lighting is left on at night and no lighting can be seen from the roadside or neighbouring properties. The Environmental Protection Team is satisfied their concerns have been addressed in these respects and raise no objection. Notwithstanding this, it is considered important to impose conditions restricting

burning manure on the site and requesting further details of the lighting, to safeguard the amenity of local residents.

Highway safety implications

- 6.11 The application sets out survey results that were undertaken on an open weekend in September 2019: Saturday count = 37 cars and 108 visitors; and Sunday count = 45 cars and 132 visitors. This equates to 8 cars per hour and it is said that the sanctuary has attracted broadly consistent visitor numbers since 2003.
- 6.12 The Highways Authority has considered the application and notes that the access is off a private road and that the existing car park can accommodate around 45 cars. KCC has also noted the undertaken surveys, and that there have been no injury crashes at the junction of Wierton Place with Wierton Road (or in the vicinity/surrounding roads), for at least 20 years. With this considered, the Highway Authority has not raised an objection to the application on highway safety grounds subject to the permanent retention of the parking area on site. The view of the Highway Authority is based on the size of the sanctuary as set out in the application, and to safeguard against inordinate growth which may result in a highway safety issue, conditions will be imposed to restrict further development on the site.

Ecological and arboricultural implications

- 6.13 No ecological information has been submitted with application. However, as no new works are proposed and the application is for the regularisation of the site, the Biodiversity Officer accepts that there is no requirement for ecological information to be submitted as part of this application. Notwithstanding this and in alignment with policy/guidance, the implementation of enhancements for biodiversity should be encouraged and this shall be sought by way of condition.
- 6.14 The Landscape Officer has considered the application and whilst not raising an objection to the proposal, concern has been raised about how the surfacing has been laid in the car park within the root protection areas of mature trees. To avoid compaction of the earth by vehicles, it is preferable that the surfacing be of 'no-dig' construction, in order to prevent the premature demise of surrounding trees. The Landscape Officer is satisfied that this issue can be dealt with by way of an informative.

Heritage impact

- 6.15 Wierton Place, a Grade II listed property, is to the west of the application site; and there are Grade II listed properties to the east of the site. The Conservation Officer also comments that East Lodge and its associated boundary walls could be considered as either curtilage listed or non-designated heritage assets depending on their ownership status at the time of listing of Wierton Place; and that 1 & 2 Wierton Hill Cottages, on the corner of East Hall Hill, are considered to be non-designated heritage assets due to their historic and architectural interest.
- 6.16 The Conservation Officer has considered the application and is of the view that the buildings associated with the application are small in scale and agricultural in character, being set to the east of the Wierton Place landscape and therefore having a minimal impact on its setting. Furthermore, a line of trees and fencing enclosing the immediate setting of the house further diminishes the impact, although this boundary in itself appears relatively recent. The remainder of site is laid out as pasture which has altered the character of the historic parkland to a degree, but in the Conservation Officer's view is not harmful. The site is also screened from Wierton Hill by dense hedging and trees and the Conservation Officer is satisfied that the development has limited impact on other heritage assets as previously identified.

Other matters

- 6.17 The site is in Flood Zone 1; the Environment Agency has made no representations; the KCC Flood and Water Management Team consider the development to be low risk; and Southern Water has raised no objection. The agent has also confirmed: effluent from the yard is no more and no less than what the animals deposit on the field to which they graze; and for the past 25yrs the 3 manure heaps are rotated on an annual basis according to their decomposition and spread onto the hay fields and harrowed in, so as to naturally improve the fertility of the soil (which is good normal farming practice nationwide). Based on this information, the Environmental Protection Team is satisfied their concerns have been addressed and raise no objection. On this basis, no further details are considered necessary in terms of flood risk, surface water drainage, and foul water disposal.
- 6.18 The Public Right of Way Officer has confirmed that the public footpath running inside the northern boundary of the site should not affect the application and no objection is raised in this respect. With regards to mineral safeguarding, KCC has made no representations and so it is therefore assumed that they have no objection to the application.
- 6.19 The representations made by Councillor Munford and Boughton Monchelsea Parish Council have been considered in the assessment of this application. The issues raised by objectors have also been considered in the assessment of this application.
- 6.20 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.
- 6.21 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Conclusion

- 6.22 It is recognised that Buttercups Goat Sanctuary plays an important role not just for tourism in Maidstone, but for the wider community that visit or play a role in the upkeep of the sanctuary. The development does not cause unacceptable harm to the character and appearance of the countryside that falls within the Greensand Ridge Landscape of Local Value; and policy/guidance seeks to support small scale businesses, that fall outside recognised settlements, to benefit the rural economy. Furthermore, there is no objection to the development on residential amenity, highway safety, ecology, heritage, and arboricultural grounds; and all other material planning considerations have been addressed. On this basis, a recommendation of approval is therefore made.

7.0 RECOMMENDATION: GRANT planning permission subject to following conditions:

1. Within 3 months of the date of this decision, details of external lighting (including illuminance levels, location, height, and hours of operation) and biodiversity enhancements shall be submitted for approval by the local planning authority. The details approved shall be in place within 1 month from the date of approval and maintained as such thereafter.

Reason: In the interests of residential amenity and biodiversity enhancement.

2. No activity in connection with the use hereby permitted shall be carried out outside of the hours of 08:00 and 17:00 each day; and no visitors shall be permitted to be on the premises outside of the hours of 11:00 and 16:00 each day between March and October, and outside of the hours of 11:00 and 15:00 on Saturdays and Sundays between November and February, except for emergencies and youth workshops between the hours of 18:00-19:30 for no more than 10 times a calendar year;

Reason: In the interests of residential amenity.

3. No manure or waste materials shall be burned upon the land within the application site;

Reason: In the interests of residential amenity.

4. The vehicle parking/turning area, as shown on drawing reference: DHA/13937/02, shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

5. Other than those forming part of this approval within the application site, no buildings, extensions, or hard boundary treatments shall be erected; and no hardstanding shall be laid;

Reason: To ensure a satisfactory appearance to the development and in the interests of residential amenity and highway safety.

6. The development hereby permitted shall be carried out in accordance with the following approved plans: DHA/13937/01; 02; 03; 04; 05; 06; 07; 08; 09; 10; 11; and 12.

Reason: In the interests of clarification.

INFORMATIVES:

1. The applicant is advised to install additional signage at the site entrance to explain goats may be stressed by noise and to remind visitors to be considerate and quiet throughout their visit.
2. It is the responsibility of the applicant to ensure 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.

3. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:
- The applicant pays for the administration costs
 - The duration of the closure is kept to a minimum
 - Alternative routes will be provided for the duration of the closure
 - Minimum of 6wks notice required to process applications for temporary closures

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent. The successful making and confirmation of an order should not be assumed.

4. Manure should be stored at least 10m away from any watercourse and sited in accordance with the Code of Good Agricultural Practice for the protection of Waters in order that there is no risk of polluting run-off entering either ground or surface waters and causing pollution. It should be noted that any containers for the storage of animal waste should be sheeted to prevent nuisance from odour and/or flies. In addition, waste should be accumulated for a minimal time only before disposal and should be stored at a location on site which will minimise the likelihood of nuisance being caused to neighbours.

Case Officer: Kathryn Altieri

PLANNING APPLICATION : 19/505435/FULL

- With regards to the hours of operation condition, following the agent's earlier agreement to the proposed conditions listed in the report, further details have come to light regarding how the sanctuary operates. It is understood that the goats tend to go to their stalls when it gets dark (so longer hours are required in the summer months); some of the animals also require regular medical attention and specialist feeding; and harvesting the hay is dictated to by the weather, so when it is possible to put the bales under cover, this at times requires staff to work overtime. Condition 2 does not cater for allowing staff and volunteers to be on the site to cover these duties.

It is therefore recommended to amend condition 2 to read:

Excluding staff and volunteers that work on the application site, no visitors shall be permitted to be on the premises outside of the hours of 11:00 and 16:00 each day between March and October, and outside of the hours of 11:00 and 15:00 on Saturdays and Sundays between November and February, except for youth workshops between the hours of 18:00-19:30 for no more than 10 times a calendar year;

Reason: In the interests of residential amenity.

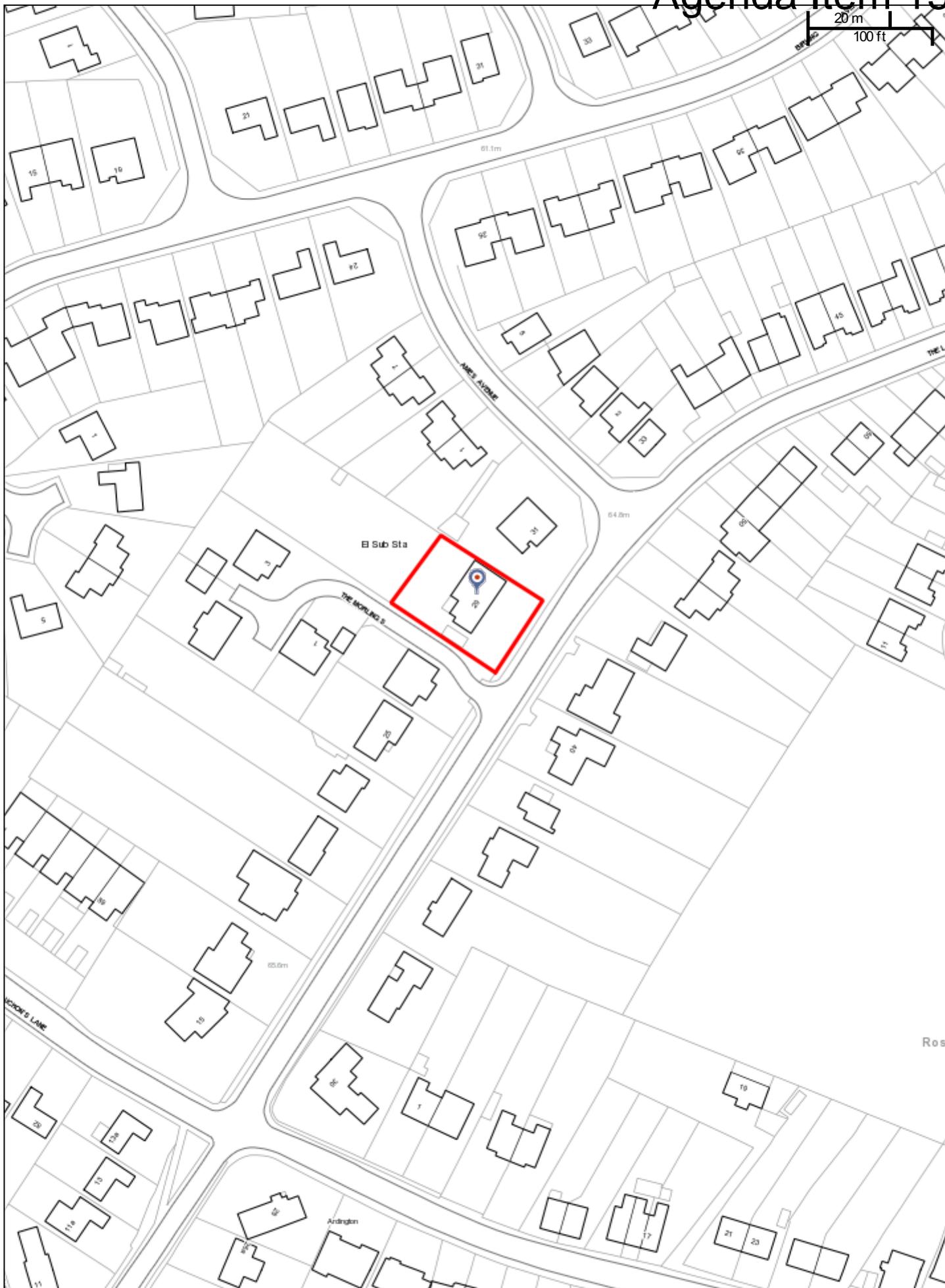
- **It is recommended to amend informative 1 to read:**

The applicant is advised to install additional signage at the site entrance to explain goats may be stressed by noise and to remind visitors to be considerate and quiet throughout their visit. Advert consent may be required for such signage as set out under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- **It is recommended to add the following additional informative:**

To avoid vehicles in the car park compacting the earth within the root protection areas of mature trees, it is preferable that the surfacing here is of 'no-dig' construction, in order to prevent the premature demise of surrounding trees.

The recommendation remains unchanged



REPORT SUMMARY

REFERENCE NO - 19/506376/FULL		
APPLICATION PROPOSAL Retrospective application for additional obscure glazing to previously approved application 19/504830/FULL.		
ADDRESS 29 The Landway Bearsted Maidstone Kent ME14 4BE		
RECOMMENDATION : GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION The application seeks to regularise as built amendments to the planning permission granted under application reference 18/500831/FULL. These namely relate to the increase in size of windows to the rear and side elevations. It is considered that since an earlier refusal with the addition of obscure glazing and the proposed addition of slatted weatherboarding that the proposed alterations would on balance be acceptable and would not significantly harm neighbouring residential amenity or the visual amenity of the street scene or surrounding area. The proposed development would be in accordance with current policy and guidance.		
REASON FOR REFERRAL TO COMMITTEE The application has been called in by Cllr Springett on the grounds of the impact on privacy, visual amenity and light spillage from the enlarged windows.		
WARD Bearsted	PARISH/TOWN COUNCIL Bearsted	APPLICANT Mr & Mrs Gashi AGENT Architecture2interior Design
DECISION DUE DATE 28/02/20	PUBLICITY EXPIRY DATE 8/02/20	OFFICER SITE VISIT DATE Visited on a number of occasions

Relevant Planning History

19/506121/FULL : Erection of front boundary wall and a screen in the rear garden (Retrospective) – Permitted

19/504830/FULL : Retrospective application for amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external alterations including rear patio area and additional parking spaces to front). (Resubmission of 19/502214/FULL) - Permitted

19/502214/FULL : Part retrospective application for the insertion of a 2.5m screen in rear garden and amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external alterations including rear patio area and additional parking spaces to front). – Refused

18/500831/FULL : Demolition of existing garage, raising of the roof height to create 1st floor level and habitable space in loft area, 2 storey side extension creating annex,

internal/external alterations including rear patio area and additional parking spaces to front – Permitted

Neighbouring site

16/507816 – 2, Five bedroom dwellings. – Permitted (these are now built and occupied)

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a detached dwelling which is situated on the corner of The Landway and The Morlings. The site was previously occupied by a bungalow with extensions and alterations approved under application 18/500831/FULL, for the property to become a 2-storey dwelling with loft accommodation.
- 1.02 Works have been completed to implement this permission, however the works have not been carried out in accordance with the approved plans and this application seeks to regularise some of these unauthorised works.
- 1.03 The site is within the urban area and benefits from an area of parking to the front of the property and a rear garden with an approximate depth of 10m.

2.0 PROPOSAL

- 2.01 The application seeks to regularise the window arrangement to the rear and side of the extended dwelling. The windows inserted are as follows, the lower part of the side windows have been fitted with obscure glazing film and the whole of the side window has been filled with obscure glazing film.

Side elevation (South west)

Window serving bedroom 1 increased in size from 1.8m x 1m to 1.8m x 1.8m

Rear elevation

Window serving bedroom 1 (first floor) increased from 2.1m x 1m to 2.2m to 1.8m

Windows serving bedroom 2 (first floor) increased from 1.7m x 1m to 1.8m x 1.8m

- 2.02 The applicants have submitted plans to provide a further amendment to these windows by providing angled matching weatherboarded slats to the lower proportion of the windows.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 : DM1 and DM9
Supplementary Planning Documents: Residential Extensions Supplementary
Planning Document (adopted May 2009)

4.0 LOCAL REPRESENTATIONS

4.01 Three letters of objection have been received from local residents raising the following (summarised) issues :

- Loss of privacy and loss of privacy
- New window design out of keeping and more intrusive
- Increased noise levels
- Windows are openable and not obscure glazed where they should be

4.02 Cllr Springett

I understand that this application is purely to regularise the height of two of the first floor windows in the north west (rear) elevation of this property, and the same for the first floor side window in bedroom 1.

I still object strongly to the design of these windows. The size of the windows makes them overly dominant in their respective elevations. Planning application 19/502214 refused these windows, and although the privacy and overlooking issue has been mostly addressed by the proposal to use obscure glass, the issue of the poor design which means the windows are overly dominant and create a cluttered appearance to the rear and south-west side elevation has not been addressed. In addition, no consideration appears to have been given to the amount of light clutter that will be generated by these full height windows at night, which could have a detrimental effect on residents in neighbouring properties if no curtains or blinds are drawn, and bright modern lighting is installed in these upstairs rooms. They are therefore contrary to DM1 and DM9 and this application should be refused.

I would also ask that in the case of your recommendation to approve, a condition be added that the material used in the windows be properly manufactured obscure glass and that they be maintained as such in perpetuity to ensure the privacy of neighbouring properties. The side window in bedroom 1 should be obscure glazed over it's entire dimensions, and not just the lower section as shown in drawing P158-PL22 Sept 2019 Rev.

5.0 CONSULTATIONS

5.01 Bearsted Parish Council

Objection due to the visual appearance and failure to keep to the original approved plans

6.0 APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Background history
- Visual amenity
- Residential amenity

- Other matters

Background history

6.02 The application site has been subject to a number of recent planning applications, firstly that which approved the extensions and alterations to the dwelling and more recently those applications which have sought to regularise works that were not carried out in accordance with approved plans. The following summarises these applications, in particular with reference to the works to enlarge two windows to the rear and one window to the side which have not been carried out in accordance with the original submission (those serving Bedroom 1 and 2) and the subject of this application.

6.03 ***18/500831/FULL : Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annex, internal/external alterations including rear patio area and additional parking spaces to front. – Permitted 16th April 2018***

This application showed one rear window to measure 2.2m in width with a height of 1.1m. and the other rear window and side window to measure 1.8m in width and 1.1m in height. The design of these windows were split into 4 and 3 casements respectively.

6.04 ***19/502214/FULL : Part retrospective application for the insertion of a 2.5m screen in rear garden and amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external alterations including rear patio area and additional parking spaces to front).- Refused 12 August 2019***

This application sought to regularise the windows as built (together with other amendments to fenestration and a screen to the rear garden), whereby the windows measure 2.2m in width with a height of 1.8m. and the other rear window and side window to measure 1.8m in width and 1.8m in height, an increase in height of the three windows by approximately 0.7m.

The application was refused for the following reason :

'The proposed window enlargements and design amendments to the south-west and north-west facing elevations would be harmful to residential amenity of neighbouring occupiers by reason of causing greater overlooking, loss of privacy and perception of overlooking, exacerbated by the intention to not obscure glaze windows that have been conditioned as such. These amendments have resulted in poor design by failing to reflect the hierarchy of windows, created a cluttered elevation, overly dominated by glazing harmful to both residential and visual amenity contrary to the National Planning Policy Framework 2019, Policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the guidance contained with the Councils Residential Extensions Supplementary Planning Document.'

6.05 ***19/504830/FULL : Retrospective application for amendment to windows to previously approved application 18/500831/FULL (Demolition of existing garage, raising of roof height to create first floor level and habitable space in loft area, two storey side extension creating annexe, internal/external***

**alterations including rear patio area and additional parking spaces to front).
(Resubmission of 19/502214/FULL) – Permitted 26th November 2019**

This application sought to regularise the amendments to the design of the fenestration as built compared to the original plans approved under application 18/500831/FULL, but did not include the increases in size of the windows.

- 6.06 As set out in section 2.0 above, the application now, similarly to application 19/502214/FULL seeks again to regularise the increase size of those windows serving bedrooms 1 and 2 to the rear and side. The main difference is the addition of obscure glazing to the lower parts of the window and the use of angled weatherboarding to the lower parts. It should also be noted that since the earlier refusal obscure glazing has been added to the entire side window and to the rear projecting bay.

Visual Impact

- 6.07 The main consideration is whether the proposed amendments to the fenestration would be harmful. The alterations to the original property are extensive, this however in itself is not reason for refusal. The original application set out that:

‘The design of the development is considered acceptable in itself and although it would significantly change the scale and character of the existing dwelling, the existing dwelling is not considered of such high visual amenity value that the change in scale and character would result in significant harm.’

- 6.08 Policy DM1 of the Local Plan sets out that proposals would be permitted if they would create a high quality design. The NPPF sets out at Paragraph 124 *‘The creation of high quality buildings and places is fundamental to what the planning and development process should achieve.’*, continuing at paragraph 130 *‘Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.’*

- 6.09 The Residential Extensions SPD, sets out in relation to windows and doors (officer’s emphasis in bold):

The proportion of windows is particularly important in successfully integrating an extension with an existing building’ (para 4.51)

*New windows should usually be arranged to line up vertically and horizontally with those of the original house, **to give a sense of balance and proportion** (para 4.53)*

*Additionally, the proportion or ration of solid wall to window should normally reflect that of the house or local buildings. **The number and size of windows in an extension should generally be limited to those absolutely necessary, otherwise the elevation could appear too cluttered.**’ (para 4.55)*

- 6.10 The earlier refused application (19/502214/FULL) described the impact of the enlarged windows as follows:

The windows to the rear and the size however would be increased by significant proportions and are not at all reflective of the design approach for the extensions and do not respect the hierarchy of windows that would be expected at first floor, they are

neither picture windows nor provide any design merit or interested to the rear elevation. As discussed above they have resulted in a significant amount of unnecessary glazing at first floor which is harmful to the overall character and appearance of the resultant dwelling. As such it is not considered that the proposed window enlargements are acceptable and is harmful and contrary to policy and guidance which seek good design.

- 6.11 The window design and proportions would remain the same as previously refused, however the application now proposes the introduction of the angled weatherboarding on the lower part of the window. This is to allow additional light into the rooms but to try and assimilate the design better with the extended dwelling.
- 6.12 The dwelling as extended has subsumed the original bungalow and altered the design of the dwelling considerably. The street scene itself is varied with no uniform characteristics. The rear elevation itself is not visible from The Landway, but can be viewed from The Morlings, the view of the windows is above the existing boundary treatment which consists of close boarded fencing and hedging. These views are at somewhat oblique angles due to the housing development to the rear of the site.
- 6.13 The contrast between the lower glazing and the weatherboarding of the existing walls does make the enlarged openings more visually prominent within the elevation and is in contrast to the normal hierarchy of windows. The proposed weatherboarding would however mitigate this contrast in material and although may appear slightly at odds with the weatherboarding on the rest of the elevation would not have such a harmful impact on the visual amenity of the street scene such that the application should be refused.
- 6.14 Detailed plans of the proposed panelling could be conditioned to ensure that it would assimilate acceptably with the existing dwelling.

Residential Amenity

- 6.15 Policies DM1 and DM9 of the local plan seeks to protect the amenity of neighbouring occupiers. The Residential extensions SPD re-iterates and expands on this guidance and developments amongst other things should not result in an unreasonable loss of privacy.
- 6.16 To the south-east facing elevation, this elevation faces towards number 27 The Landway, which has a number of windows in their flank elevation serving a number of different rooms. The properties are separated by a narrow roadway (The Morlings). As the window is in situ, it can clearly be seen from the neighbouring property. The earlier report in relation to application 18/500831/FULL which approved the extensions set out the following:

To the South West side the site is separated from the next dwelling, number 27, by a road, however, this is a narrow road. Number 27 has 3 1st floor flank Windows facing the site, the rearmost of which is understood to serve a bedroom and is not obscure glazed. The proposed first-floor window to the South West side elevation would be in a position where it would face almost directly towards the said window, and although there is a road separating the buildings, this is a narrow road, with the actual separation distance being only approximately 13 m. Views from the road are limited, because of the proximity of the road to number 27's window and the sharp angle upwards. There is a conifer hedge to the site boundary, but this is not considered to wholly prevent views and also may be cut or lost in the future. It is therefore considered, that it is necessary to place an obscure glazing condition upon this

window, which is in any case a secondary window to bedroom 1 in order to prevent significant overlooking of number 27's bedroom.

- 6.17 The later refusal under application 19/502214/FULL set out:

This appraisal still remains pertinent, views are clearly available from number 29 and vice versa. The increased window size has also made the area of glazing and perception of overlooking and loss of privacy greater. It was a balanced decision allowing the window in this elevation, the mitigation was obscure glazing and fixing shut, neither of these to date have occurred and to exacerbate the situation the opening has been nearly doubled in size. There is no justification for this size increase, in particular being a secondary window. It has been considered whether the window could again be conditioned to be obscure glazed however this would not overcome the size of the opening and the greater perception of overlooking that has occurred. The applicant has also shown a clear intention not to obscure glaze the windows by fitting them with clear glazing and as such although there are powers of enforcement available it is not considered this would overcome the overall harm.

- 6.18 With regard to the rear facing windows the same report set out the following:

The enlargement to the bedroom windows for bedrooms 1 and 2 has again exacerbated a balanced decision with regard to the impact on neighbouring amenity. Windows of proportions that would be expected of a domestic dwelling (as approved) are considered acceptable, however the larger windows although may not exacerbate any potential actual overlooking would create a greater perception of overlooking by the glazed area being almost doubled. This is considered unneighbourly and harmful to neighbouring amenity.

- 6.19 The report concluded in terms of amenity that:

Overall the retrospective changes to the windows would result in an increase in actual and the perception of overlooking exacerbated by the applicants clear intention not to comply with conditions and install clear not obscure glazing harmful to the amenity of neighbouring occupiers.

- 6.20 The application again seeks the same proportion of windows, however since the earlier refusal obscure glazing has been fitted to the full extent of the side window and the lower part of the rear windows. The application also now proposes to fit angled weatherboarding to match the existing dwelling on the lower part of the windows. The justification by the applicant for enlarging the windows is to allow further light into the bedrooms.

- 6.21 The obscure glazing of the lower part of the windows and the entire side window has mitigated the impact of actual overlooking, although this alone has not impacted upon the perception of overlooking. As a compromise to still allow additional light into the rooms, the applicants now proposes the addition of angled weatherboarding. This would act as a greater screen from both the extent of glazing and any light emittance (as highlighted in Councillor Springett's concerns).

- 6.22 The earlier refusal was on a balanced judgement that additional harm to neighbouring amenity would result. It is considered that this additional measure to mitigate harm would tip the balance in favour of the scheme. On balance it is considered that due to the extent of additional glazing, the obscure glazing, together with the slanted weatherboarding (both of which can be conditioned) and the

relationship with neighbouring properties are such that no significant additional harm would result to neighbouring amenity.

Other Matters

- 6.23 Neighbour representation and the Parish Council have raised the fact that the works were not carried out in accordance with approved plans. It is noted that the application is retrospective but this is not a reason to refuse the application and the applicant is seeking to regularise the works.
- 6.24 Representation has been received regarding failure to comply with the conditions requiring obscure glazing. This has now been rectified by the applicants and apart from the additional lower glazing the development is considered to be in accordance with the approved plans and conditions.
- 6.25 The application solely relates to the amendment identified in the above report, however as the description makes reference to a previous approval and the plans would supersede those plans it is considered those conditions on the earlier approval be replicated on this decision. As such there will be conditions which are not wholly relevant to those matters for re-consideration.

PUBLIC SECTOR EQUALITY DUTY

Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7.0 CONCLUSION

- 7.01 The application seeks to regularise as built amendments to the planning permission granted under application reference 18/500831/FULL. These namely relate to the increase in size of windows to the rear and side elevations. It is considered that since an earlier refusal that with the addition of obscure glazing and the proposed addition of slanted weatherboarding that the proposed alterations would on balance be acceptable and would not significantly harm neighbouring residential amenity or the visual amenity of the street scene or surrounding area. The proposed development would be in accordance with current policy and guidance.

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

Drawing Number P158-PL22 Rev A received 12/2/2020 (Proposed Elevations – showing the addition of slanted weatherboarding)

Reason: To clarify which plans have been approved.

- 2) Within 1 month of the date of this approval details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the proposed slatted weatherboarding shown on Drawing Number P158-PL22 Rev A shall be submitted to and approved by the Local

Planning Authority. These details shall include details of the proposed angle, finish, material and means of fixing to the existing elevation. The weatherboarding shall be fitted in accordance with these details within 2 months of the approval and maintained as such at all times.

Reason : In the interests of the visual and residential amenity

- 3) The following window/parts of windows/rooflights shall be obscure glazed and fixed shut, unless the part(s) of the window/rooflight which opens are at least 1.7 m above the finished floor level of the room in which it is installed:

- Both rooflights to the first floor serving bedroom 3, to the North East side elevation
- the part of the bay window to the first floor serving bedroom 3, to the North East side elevation
- the part of the bay window to the first floor serving bedroom 3, to the North West rear elevation
- the lower proportion of the rear facing windows serving bedrooms 1 and 2 as indicated on drawing number P158-PL22 Rev A

The first floor window serving bedroom 1 to the South West side elevation shall be fully obscure glazed and fixed shut.

They shall subsequently be maintained as such at all times.

Reason: In order to protect privacy for the surrounding properties.

- 4) The annex accommodation hereby permitted shall only be used for purposes ancillary to the use of the main dwelling known as 29 The Landway and it shall not be used as a separate, independent dwelling;

Reason: Its use as a separate dwelling would have an unsatisfactory relationship with the main house.

- 5) No new windows, rooflights, voids or other openings shall be placed, formed or inserted above ground floor level in the North West rear and South West side elevations of the development hereby permitted;

Reason: In order to protect privacy for adjoining property.

Case Officer: Rachael Elliott

REFERENCE NO -19/503532/OUT		
APPLICATION PROPOSAL Outline application with access matters sought for demolition of two existing buildings and erection of four residential dwellings. (Matters of appearance, landscaping, layout and scale are reserved for future considerations).		
ADDRESS 3-5 Kings Road Headcorn Ashford Kent TN27 9QT		
RECOMMENDATION Grant Outline Planning Permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal involves the removal of a potentially unneighbourly commercial development. It has been demonstrated that the site is capable of accommodating 4 dwellings as a minor infill in a manner that is acceptable in its amenity, highways, flooding and wildlife impacts while making a windfall contribution towards meeting housing supply in the Borough.		
REASON FOR REFERRAL TO COMMITTEE Recommendation to grant permission contrary to the views of Headcorn Parish Council		
WARD Headcorn	PARISH/TOWN COUNCIL Headcorn	APPLICANT Mr. R Hawkes and Mrs. L Alexander AGENT DHA Planning
TARGET DECISION DATE 30/11/19		PUBLICITY EXPIRY DATE 17/10/19

MAIN REPORT

1. BACKGROUND

- 1.1 Consideration of this application was deferred at the meeting on the 19th December 2019 and this report is intended to supplement the earlier committee report that is included as an appendix (**Appendix 1**).
- 1.2 The deferral decision was to enable discussions to take place with the applicant to:
 - (a) seek to secure a reduced scheme of three units and
 - (b) explore the potential for a wet woodland landscaping scheme along the rear of the site.
- 1.2 The applicant has considered the concerns expressed by members but still feels that the site can successfully accommodate 4 units with the submission of a revised indicative layout plan.
- 1.3 The revised indicative layout seeks to demonstrate compliance with the Councils normal layout, amenity, parking, access and turning standards while also making provision for a wet woodland landscaping scheme along the rear of the site.
- 1.4 The main layout changes are as follows:
 - Resiting the terraced housing forward (south) on the plot to provide further space to the rear.
 - Reconfiguring parking for the terraced units to provide improved amenity areas.
 - Amenity areas extended for the terraced units;
 - Reducing the footprint of the detached unit to provide improved space around the property and improved amenity area.

2. APPRAISAL

- 2.1 The two issues raised in the reasons for deferral were (a) seek to secure a reduced scheme of three units and (b) explore the potential for a wet woodland landscaping scheme along the rear of the site.

(a) seek to secure a reduced scheme of three units

- 2.2 The current planning application is in outline form with 'access' the only matter that is currently being considered. Matters of appearance, landscaping, 'layout' and scale are reserved for future considerations.

Layout

- 2.3 Following the deferral, a revised indicative layout plan has been submitted by the applicant which shows two main changes:

- Firstly, 2 of the 3 houses (Units A and B) are moved a further 2 metres forward towards Kings Road.
- Secondly, the rear off street parking area for units A, B and C is now accessed directly off the existing access road, with this revision allowing the removal of the large vehicle manoeuvring area.

- 2.4 In order to maintain the existing streetscene and contrary to the indicative layout plan, the front elevation of the development should not be forward of the existing building. It is considered that this can be achieved whilst meeting other planning standards. If members are minded to grant outline permission a planning condition is recommended to achieve this when layout is assessed at a later date.

External amenity space

- 2.5 One of the concerns expressed by members related to the size of external amenity space. The Council does not have any policy standard for the size of amenity space. In the absence of any guidance, a standard used elsewhere is 50 square metres for a family dwelling.

- 2.6 The revised indicative layout in this case shows in excess of 50 square metres for private rear garden areas (Unit A 78SqM; B 74 SqM; C 55 SqM; D 75 SqM) with additional garden land to the front and side of the buildings.

Off street parking

- 2.7 With on street parking controls along Kings Road (see Local Plan Appendix B), this location has characteristics in keeping with a suburban area and in these locations the proposed 4 houses require a total of 6.8 off street spaces (Residents 6 with 1.5/unit and visitors 0.8 with 0.2/unit).

- 2.8 The development will provide 8 off street car parking spaces which includes one additional space to the side of Unit C. The 5 parking spaces to the rear of units A, B and C have been reoriented next to the access road with the final two spaces retained to the rear of Unit D.

(b) explore the potential for a wet woodland landscaping scheme along the rear of the site.

- 2.9 In response to member comments, an area to the northeast of the site has been annotated by the applicant on the indicative layout plan as a '*potential area of wet woodland ecology landscape strip*'. A condition is recommended that says that the applicant should explore as part of the overall landscape scheme the provision of a wet woodland landscaped area.

3. CONCLUSIONS

- 3.1 A revised terrace (Units A, B and C) having a rectangular (not irregular footprint as shown on the latest layout plan) could be relocated back onto the line of the existing building while still securing amenity areas of a usable size and satisfactory parking areas that meet the Councils normal standards.

- 3.2 Turning to the detached dwelling (Unit D), the indicative plans show a reduced footprint and provision of rear amenity area of usable size and proportions abutting a vehicle parking area. Subject to a condition to secure no windows above first floor level on the west facing elevation (to prevent close high level overlooking into the rear amenity areas of the adjoining terrace) it is considered the revised indicative details are sufficient to demonstrate this part of the site is also capable of accommodating a detached dwelling in accordance with the Councils normal layout, amenity, parking and highway standards.
- 3.3 Members reservations over the ability of the site to accommodate 4 dwellings in an acceptable manner are acknowledged. It is nevertheless considered the revised indicative layout plans (subject to an amended siting of the terrace) demonstrate the site is capable of accommodating a balanced development meeting the Councils normal standards. With layout a reserved matter and not being approved at this time it is recommended that outline planning permission be granted subject to an informative advising the applicant of the need for the development to respect the existing building line.

4. RECOMMENDATION

GRANT outline planning permission subject to the following conditions:

1. The development shall not commence (including demolition) until approval of the following reserved matters has been obtained in writing from the Local Planning Authority: -a. Appearance b. Landscaping c. Layout and d. Scale 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. The layout and appearance details submitted pursuant to condition 1 shall not include any development forward of the front elevation of the existing building on the site that fronts Kings Road.

Reason: To ensure a satisfactory appearance to the development.

3. Prior any part of the development hereby approved reaching damp proof course details of a sustainable surface water drainage scheme (including its longterm maintenance) shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out before first occupation of any of the dwellings hereby approved and retained in accordance with the approved details at all times thereafter.

Reason: In the interests of pollution prevention, sustainability and flood prevention.

4. Prior to the development hereby approved reaching damp proof course samples of materials (which shall include those to be used for parking, turning and pedestrian walkways) to be used in the construction of all external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

5. The layout and appearance details submitted pursuant to condition 1 shall include

the windows located at (a) first floor to the west facing elevation of any dwelling abutting the boundary with 1 Kings Road and (b) at first floor to the west facing elevation of the detached dwelling D as identified on drawing no: DHA/13772/03 D, to be fitted with obscured glass and fixed shut prior to first occupation of the relevant units and maintained as such for the lifetime of the development.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

6. Other than those shown on the drawings approved pursuant to condition 1, no additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the (a) the west facing first floor elevation of any dwelling abutting the boundary with 1 Kings Road and (b) at first floor to the west facing elevation of the detached dwelling D as identified on drawing no: DHA/13772/03 D or any replacement building in this location.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

7. Prior to the development hereby approved commencing (including demolition) a scheme for the provision and management of an 8 metre wide buffer zone alongside the watercourse shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

- plans showing the extent and layout of the buffer zone.
- details of any proposed planting scheme (for example, native species of local genetic provenance and suited to the catchment character).
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- details of any proposed footpaths, fencing, lighting, etc.

The development shall be carried out in accordance with the approved scheme prior to first occupation of the approved development. The buffer zone shall be kept free from built development including lighting, domestic gardens and formal landscaping except as may be approved in connection with the management scheme.

Reason: In the interests of wildlife.

8. Landscaping details submitted pursuant to condition 1 above shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. The provision of a wet woodland landscaped area shall be explored as part of the formation of the landscaping scheme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

9. The approved landscaping associated with individual dwellings shall be in place at the end of the first planting and seeding season following occupation of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following occupation of the final unit. Any trees or plants, which, within a period of 5 years from the occupation 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.

Reason: In the interest of visual amenity of the area.

10. The development hereby approved shall not commence (including demolition) until details of an Arboricultural Method Statement (which shall include tree protection measures) prepared in accordance with the current edition of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

11. The parking/turning areas approved pursuant to condition 1 shall be completed before first occupation of any of the dwelling hereby approved and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them or restricting the emergency access through the site.

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

12. The development hereby permitted shall not be commenced (excluding demolition) until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
 - 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall thereafter be implemented as approved.

Reason: To prevent harm to human health and pollution of the environment.

13. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in point 3 of the preceding condition. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the

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

Reason: To prevent harm to human health and pollution of the environment.

14. Prior to the commencement of development (including demolition) hereby permitted details shall be submitted to and approved in writing by the Local Planning Authority demonstrating the bat roosting features detailed within the mitigation strategy will be incorporated into the new buildings and surrounding trees. The full bat mitigation strategy, as detailed in the Bat Emergence Survey Report dated the 22nd September 2019, along with measures to enhance the site for bats shall be implemented in full, prior to first occupation of the approved dwellings and shall be thereafter retained.

Reason: In the interests of wildlife.

15. The ecological enhancements and mitigation measures recommended specified in the preliminary Ecological Appraisal dated July 2019 shall be carried out as specified.

Reason: In the interests of wildlife.

16. Prior to any part of the development hereby approved reaching damp-proof course a bat sensitive lighting plan for the site boundaries shall be submitted to and approved in writing by the local planning authority. Lighting shall only be installed in accordance with the approved details and retained as such for the life of the development.

Reason: In the interests of wildlife.

17. Prior to any part of the development hereby approved reaching roof level details of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority to include gaps for the passage of wildlife. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of privacy and visual amenity.

18. Other than those approved as part of the preceding condition and notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road;

Reason: To safeguard the open plan character and appearance of the development.

19. Prior to first occupation of each dwelling a minimum of one electric vehicle charging point shall have been installed for the benefit of the occupier of that dwelling with the charging point thereafter retained for that purpose.

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

20. Prior to the commencement of development (including demolition), a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

21. The development hereby approved shall be carried out in accordance with the following plans nos: DHA/13772/01, 03 rev D, 04- 09 (consec) and H-01 rev P1.

Reason: In the interests of amenity.

INFORMATIVES

- 1) The proposed development is Community Infrastructure Levy liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 2) Details submitted pursuant to condition 13 will need to address the following matters:
 - The Bat Conservation Trust's Guidance Note 8 'Bats and artificial lighting' in the UK should be adhered to in the lighting design for the works undertaken and the new dwellings built.
 - Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
 - Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory (including details of light spill which shall not exceed 1LUX on the vegetated boundaries).

The mitigation strategy must be implemented as approved unless varied by a European Protected Species (EPS) license issued by Natural England.

- 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>
- 4) 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.

Case Officer: Graham Parkinson

Appendix 1 Report to Planning Committee 19 December 2019

REFERENCE NO -19/503532/OUT			
APPLICATION PROPOSAL Outline application with access matters sought for demolition of two existing buildings and erection of four residential dwellings. (Matters of appearance, landscaping, layout and scale are reserved for future considerations).			
ADDRESS 3-5 Kings Road Headcorn Ashford Kent TN27 9QT			
RECOMMENDATION Grant Outline Planning Permission subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal involves the removal of a potentially unneighbourly commercial development. It has been demonstrated that the site is capable of accommodating 4 dwellings as a minor infill in a manner that is acceptable in its amenity, highways, flooding and wildlife impacts while making a windfall contribution towards meeting housing supply in the Borough.			
REASON FOR REFERRAL TO COMMITTEE Recommendation to grant permission contrary to the views of Headcorn Parish Council			
WARD Headcorn	PARISH/TOWN Headcorn	COUNCIL	APPLICANT Mr R Hawkes and Mrs L Alexander AGENT DHA Planning
TARGET DECISION DATE 30/11/19		PUBLICITY EXPIRY DATE 17/10/19	

Relevant Planning History:

The application site is part of and provides emergency access from Kings Road to the main part of the allocated housing site H1(36) located to the north. The following permissions have been granted to site H1(36):

- Application 15/503325/HYBRID: Outline application for development of up to 220 houses together with areas of open space, a nature conservation area, landscaping, new access onto Ulcombe Road and improved access to Kings Road (access being sought) plus change of use of land to school playing field - hybrid application (Resubmission of application 14/505284/OUT).
- (Application 17/505499/REM: Approval of Reserved Matters following 15/503325/HYBRID (Outline application for development of up to 220 houses together with areas of open space, a nature conservation area, landscaping, new access onto Ulcombe Road and improved access to Kings Road (access being sought) plus change of use of land to school playing field - hybrid application (Resubmission of application 14/505284/OUT)) -Appearance, Landscaping, Layout and Scale being sought.

MAIN REPORT

1. SITE DESCRIPTION

- 1.1 The application site has an area of 0.11 hectares and lies on the north side of Kings Road in the Local Plan designated Rural Service Centre of Headcorn.
- 1.2 Immediately abutting the site to the west is 1 Kings Road, which is a detached residential dwelling. Further residential accommodation is located opposite the site

together with the White Horse Public House. Headcorn Primary School is to the east of the site. There is a watercourse running to the north of the site.

- 1.3 The site is occupied by two vacant commercial units (Use Class B8 Storage and Distribution - total floorspace of 457 square metres). The first building is parallel with the road (eaves height 5.1 metres, ridge height 7.7 metres), the end of the second building faces the front of the site (eaves height 4.6 metres, ridge height 7.2 metres) An access road runs between the buildings with large areas of hardstanding to the rear of the buildings with grassed areas to the front of the site.
- 1.4 The current application site and the land to the north is allocated housing site H1 (36)) with the allocation specifying that emergency/pedestrian and cycle access will be taken from Kings Road through the application site. The proposed layout replicates the existing layout retaining the current access provided between the buildings.
- 1.5 Whilst the local plan shows the site within Flood Zones 2 and 3, more precise modelling using Environment Agency data has shown the site in flood zone 1. Whilst the site is in the designated Landscape of Local Value (forming part of the Low Weald) the site is in the built up area of the Headcorn Rural Service Centre.
- 1.6 The ordnance survey map appears to show that the application site includes 3, 7 and 9 Kings Road, however the applicant has confirmed that this is incorrect. The applicant has confirmed that the address of the two buildings on the site are 3 and 5 Kings Road and that the Post Office has no record of 7 and 9 Kings Road.

2. PROPOSAL

- 2.1 Outline planning permission is sought for the demolition of the existing buildings and the erection of four no. 3 bedroom residential dwellings.
- 2.2 All matters are reserved except for access. Indicative design, siting and layout plans have been submitted seeking to demonstrate the site is capable of accommodating the scale of development in line with the Councils normal standards. The dwellings are provided on the indicative layout as a terrace of three properties with accommodation in the roofspace and a detached dwelling.
- 2.3 The proposals also remove areas of concrete hardstanding which will be replaced with permeable surfacing.
- 2.4 The application is accompanied by a Flood Risk Assessment, preliminary ecological appraisal and bat emergence report.
- 2.5 A renewables statement has also been submitted specifying the following measures:
 - PV panels on all appropriate roof slopes of the four new dwellings.
 - Energy saving measures including the use of low energy lighting, energy metering, double glazing and controls to dynamically adjust heating, ventilation, cooling, hot water generation to reduce carbon emissions and maximise energy efficiency.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017: SP5, SP7, SP22, H1(36), EMP1, DM1 and DM5

Headcorn Neighbourhood Plan

Very limited weight is attached to Headcorn Neighbourhood Plan for the reasons set out below.

At a meeting of the Strategic Planning, Sustainability and Transportation Committee on 13 June 2017 Maidstone Borough Council formally resolved not to move the Headcorn Neighbourhood Development Plan to referendum under Schedule 4B of the Town and Country Planning Act 1990. This means the Headcorn Neighbourhood Development Plan will not become part of the statutory development plan for Maidstone Borough. Consequently the plan will not be used to determine planning applications in the Headcorn neighbourhood area. Reasons for decision: The examination of the Headcorn Neighbourhood Development Plan concluded that the Plan does not meet the basic conditions and is therefore not able to move to referendum.

4. LOCAL REPRESENTATIONS

4.1 1 objection received from a local resident stating that building 4 more houses in an area that is already overdeveloped will cause further disruption and there is no need for new housing.

4.2 1 letter of support of the scheme, subject to the omission of windows (or provision of opaque glazing) in western gable of terrace in order to protect privacy and the provision of vehicular access to 1 Kings Road

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

5.1 **Headcorn Parish Council:** Object on the following grounds:

- Excessive density (should be 3.3 and not 4 houses) therefore conflicting with policy DM12.
- Lack of parking for both residents and visitors – will cause overspill parking into parking allocated for public use created to compensate for loss of spaces on Kings Road that will be lost when traffic lights installed as a requirement of the Ulcombe Road housing development.
- Given allocated housing provision along with significant number of unsold houses no need for these houses.
- Site was the subject of localised flooding as recently as April 2018 and have photographs showing this.
- Site includes the Emergency Vehicle access serving the housing development permitted in Ulcombe Road.
- Houses are three storey and therefore contrary to the Headcorn neighbourhood plan and out of character with other buildings in the local vicinity.

5.2 **Kent Highways:** No objection. Information has been submitted that addresses the following original comments

- The required visibility splays are not provided.
- Level of parking provision is considered appropriate to ensure overspill parking does not occur on the local highway.
- The site's emergency access relationship with the Ulcombe Road Development should not be compromised.
- Swept path analysis of access required to demonstrate its suitability as well as confirmation regarding the details at the emergency access crossover point with the adjoining site.

5.3 **Environmental Health Officer:** No objection

5.4 **Environment Agency:** No objection subject to a condition to retain and protect the buffer zone adjoining the River Beult in the interests of wildlife.

5.5 **KCC Ecology:** No objection subject to the following

- Have reviewed the submitted information and advise it is sufficient for the determination of the planning application.

- Detailed mitigation/enhancement requirements must be submitted/implemented as a condition of any planning permission.
- Roosting Bat surveys confirmed the presence of 4 roosts of Common Pipistrelle (2 separate roosts in each building) and an outline mitigation strategy has been suggested.
- The proposed demolition of the two buildings will result in the loss of several confirmed bat roosts. Bats are European protected species and Maidstone BC must have sufficient information to address the requirements of the EC Habitats Directive when making the planning decision. It has been confirmed that offences will be committed if the works take place without a European Protected Species Mitigation Licence (EPSML).
- The Council must consider whether it is likely that a EPSML will be granted by applying three derogation tests being
 - The development activity must be for imperative reasons of overriding public interest or for public health and safety;
 - There must be no satisfactory alternative; and
 - The favourable conservation status of the species must be maintained.
- Only able to comment on the third test as the first two tests must be considered of the planning balance.
- Advise sufficient survey information has been submitted to inform a detailed mitigation strategy and satisfied that sufficient mitigation has been proposed to maintain the favourable conservation status of the bats.
- The detailed bat mitigation strategy, along with an updated site plan demonstrating that it will be implemented on site must be submitted and implemented as a condition of any planning permission.
- The proposal provides opportunities to incorporate features beneficial to wildlife, such as native species planting or the installation of bat/bird nest boxes and advise measures to enhance biodiversity are secured as a condition of any planning permission.
- Ecological enhancements measures should to be over and above any mitigation measures. As such, the suggested bat boxes enhancements have to be in addition of any bat boxes suggested in the bat mitigation strategy.

6. APPRAISAL

6.1 The key issues are principle, impact on the character and setting of the locality, amenity, highways, flooding and wildlife considerations.

Principle:

6.2 Whilst the site is in the designated Landscape of Local Value (forming part of the Low Weald) the site is in the built up area of the Headcorn Rural Service Centre and on this basis no harm is identified to the LLV.

6.3 After the urban area, the local plan identifies rural service centres like Headcorn as the most sustainable locations in the borough. The development is therefore principally subject to policies SP5 and SP7 of the local plan. In response to neighbour and parish council comments, whilst the council currently has the necessary 5 year housing land supply, this is a rolling housing land target and as a result the current housing land supply is not grounds to refuse planning permission for additional dwellings. In addition it is highlighted that the council is currently considering information received from the recent call for sites process with the aim of meeting future housing land supply needs.

6.4 Policy SP5 relating to rural services centres generally, amongst other things, allows minor development such as infilling, redevelopment of previously developed land

of a scale appropriate to the size of the village and the retention and improvement of existing employment sites.

- 6.5 The loss of the currently vacant buildings on the site (Use Class B8 storage and distribution) and the generally low level employment that is provided by B8 uses, has already been considered as part of the local plan adoption process. The current application site falls within the allocated housing site under ref: H1(36) Policy H1(36) requires emergency/pedestrian and cycle access be taken from Kings Road.
- 6.6 Whilst listing a net density of 30 dwellings per hectare Local Plan policy DM 12 states that the overriding consideration is that all new housing reflects local context and that proposals that fail to make efficient use of land for housing, having regard to the character and location of the area, will be refused permission. The Parish Council have highlighted that a density of 30 dwellings per hectare would amount to 3.3 dwellings rather than the 4 proposed. The submitted proposal complies with policy DM12 as the density is consistent with achieving good design and does not compromise the character of the area in which it is situated.
- 6.7 Local Plan policy DM 5 states that proposals for development on previously developed land (brownfield land) in rural service centres that make effective and efficient use of land will be permitted where they meet a number of listed criteria. The current application meets the requirements of policy DM5 as the site is not of high environmental value. The density of new housing proposals reflects the character and appearance of the area and is consistent with policy DM12.
- 6.8 In summary, the loss of the existing vacant buildings and the provision of residential accommodation on the current application site is acceptable subject to the assessment below of other material planning considerations

Impact on character and setting of the locality:

- 6.9 The current outline application is considering access only with all other matters reserved for future assessment. The indicative layout plan largely reflects the size and siting of the existing buildings occupying the site.
- 6.10 It is considered the indicative details demonstrate it is possible to erect 4 dwellings on this site meeting block spacing, usable amenity space, parking, turning and landscaping requirements in a manner that will not materially harm the character or layout of the locality. The indicative layout demonstrates that the application site can be redeveloped while ensuring that the emergency access for housing development to the north of the site is not compromised.
- 6.11 It is therefore considered the proposal represents an example of a minor infill in accordance with the provisions of policy SP5.

Amenity:

- 6.12 Immediately abutting the site to the west is the detached residential property at 1 Kings Road.
- 6.13 Uses similar to that on the application site (B8 storage and distribution) are generally directed to industrial estates as they have the potential to harm amenity in residential areas. This type of use is also normally heavily restricted next to residential properties (for instance operating hours) which limits business flexibility and can place a burden on business operations.
- 6.14 The removal of the commercial use from the application site and its replacement with dwellings would remove an incompatible use and bring an uplift to residential amenities (having the potential to cause visual intrusion, noise and disturbance).

- 6.15 In addition the indicative layout plans demonstrate it is possible to site the new dwellings to ensure they will have an acceptable 'dwelling flank to flank' separation distance with 1 Kings Road. To protect the privacy of 1 Kings Road windows above 1st floor level on the west facing elevation of dwelling A should be obscured.
- 6.16 Other nearby dwellings are on the opposite side of Kings Road. These buildings should experience a visual improvement as a result of replacing commercial buildings with residential dwellings. The replacement buildings better reflecting the scale and character of the area.
- 6.17 Turning to the amenity of the future residents, the submitted plans demonstrate the site is capable of accommodating 4 dwellings while providing an acceptable standard of residential amenity for occupants.
- 6.18 Regarding proximity to the primary school abutting the site to the east. The school buildings (which are low profile) are set just under 10 metres off the site boundary. Subject to additional screen planting along this boundary, neither the bulk of the school buildings or school activities should have any material impact on the outlook or amenity of future residents.

Highways:

- 6.19 As traffic generated by the site will be reduced (commercial use having the potential for significantly greater traffic generation than 4 houses), the use of the existing and retained access for emergency purposes will not be compromised.
- 6.20 With on street parking controls along Kings Road (see Local Plan Appendix B), this location has characteristics that are more in keeping with a suburban area (as opposed to a village or rural area) and in these locations the proposed 8 houses require a total of 6 resident spaces with 0.8 spaces for visitors (1.5 residents and 0.2 visitors per unit). The development will provide 7 off street car parking spaces. In the event that the site is considered a rural location, whilst the standard requires 8.8 car parking spaces (2 residents and 0.2 visitors per unit) the provision is still considered acceptable with double yellow lines outside the site and restricted parking bays opposite.
- 6.21 The proposal is acceptable in relation to highway impacts. The applicant submitted additional information in response to a number of concerns and Kent Highways have subsequently confirmed they have no objection to the proposal.

Flooding:

- 6.22 The council's GIS system shows the site falls within flood zones 2/3. The submitted Flood Risk Assessment (FRA) states that flood levels have been obtained from the Environment Agency and that 1 in 100-year flood level plus an allowance for climate change of 19.77m AOD (Flood Zone 3) shows the area to be developed for the new dwellings within Flood Zone 1 even when taking into account an allowance for anticipated climate change.
- 6.23 As such 'more vulnerable' developments such as residential development situated in Flood Zone 1 are appropriate The FRA also concludes the proposed development will result in a reduction in the impermeable area that currently drains into the existing watercourse thereby reducing the overall flood risk of the existing watercourse
- 6.24 The information submitted by the applicant has been considered by the Environment Agency (EA). In the absence of objection from the EA (subject to imposition of its recommended conditions) it is considered there is no sustainable objection to the proposal on flood risk grounds.

- 6.25 Notwithstanding the above, the Parish Council maintains the site was subject to localised flooding as recently as 2018 and have submitted evidence which it contends support this.
- 6.26 In response the applicants advise that parking is proposed at the rear of the site with the dwellings located entirely within Flood Zone 1 with ground levels located a minimum of 0.3m above the 1:100 + 70% flood level. The EA have also been advised of the PC's comments and any response will be reported to the Committee as an update.

Wildlife:

- 6.27 All species of bat that are common in the UK are protected under various pieces of legislation including the Wildlife and Countryside Act 1981 [as amended] and the Habitats Regulations 2010. In summary this legislation makes it illegal to deliberately capture, injure or kill bats; deliberately disturb bats including their ability to survive; to damage, destroy or obstruct access to a bat roost; possess or transport a bat or to sell, barter or exchange a bat.
- 6.28 Under the Habitats Regulations 2010 [Regulation 9 (5)] a Local Planning Authority "...in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions. National Planning Policy Guidance and Government Circular 06/2005 state that the presence of a protected species is a material consideration when a planning authority is considering a development proposal that would be likely to result in harm to the species or its habitat.
- 6.29 As surveys have identified the presence of bat roosts on the application site, the developer would be required to secure a separate licence from Natural England. As part of the assessment of this licence application Natural England would apply 'three tests' that are set out in legislation. These three tests would assess whether the activity is imperative for reasons of overriding public interest; whether there is no satisfactory alternative and whether favourable conservation status would be maintained.
- 6.30 A Judicial Review judgement on the 5 June 2009 (Woolley v Cheshire East Borough Council) found that Local Planning Authorities in exercising their responsibilities under the Habitats Regulations 2010 must also consider these three tests when considering planning applications where bats roosts have been identified and a Natural England Licence would be required. As such the Council must consider whether it is likely that a European Protected Species Mitigation License (EPSML) will be granted for the proposed development by addressing these three tests and this assessment is set out below.
- (a) Overriding public interest.
- 6.31 The overriding public interest in the current development is bringing this site in a sustainable location and allocated in the Local Plan for housing back into beneficial use to provide additional residential units.
- (b) No satisfactory alternative.
- 6.32 If the site is not redeveloped it is possible that the site will fall into disrepair, be a target for vandalism, and, as bats require shelter and constant temperatures, this will make the building less suitable for a bat roost.
- (c) Favourable conservation status must be maintained.
- 6.33 Given concerns relating to bats the ecological assessment was supplemented by a Bat Emergence Survey Report. This revealed low numbers of Common Pipistrelle bats emerging or re-entering both buildings. It concluded the roosts had low conservation status and as such the provision of 4 bat boxes represents suitable mitigation and compensation for the affected roosts. In addition, the hedgerow

running along the eastern boundary will be retained to provide a commuting corridor for bats between the preferred foraging area to the south of the site and the wooded areas and pasture north of the site. A planning condition is recommended to seek to ensure that all external lighting is the minimum level necessary with no light spill onto roost entrances or commuting corridors.

- 6.34 As such, subject to conditions securing all the recommended mitigation and enhancement measures, it considered reasonable to conclude that an EPSML will be granted for the proposed development.
- 6.35 In relation to other protected species, the submitted ecological survey revealed the site provides foraging opportunities for badgers however, no evidence of badgers or badger setts was recorded. Suitable nesting habitat for other birds exist throughout the site in the form of trees and buildings. It was also concluded the site offers sub-optimal dormouse habitat which is fragmented and disconnected from other areas of suitable dormouse habitat.
- 6.36 In connection with Great Crested Newts (GCN) a small area of suitable terrestrial habitat was identified. However in carrying out the development a precautionary approach will be applied in accordance with recognised guidelines. No other reptile species were identified but the mitigation strategy outlined for GCN will protect any reptiles found within the development area.
- 6.37 In response to the above the following mitigation/enhancement measures are recommended:
- The installation of bird boxes onto any buildings or trees within the site benefitting a diversity of bird species. To maximise suitability, boxes should be installed on sheltered aspects close to vegetation at a height of 2-3m, preferably on north, north-east or north-west facing elevations.
 - The incorporation of a wildlife-friendly planting using native plant species to benefit to invertebrates and subsequently species such as birds and bats.
 - Hedgehog box at a suitable location within vegetated areas of the site
 - Tree planting using native species such as pedunculate oak *Quercus robur*, small leaved lime *Tilia cordata*, black poplar *Populus nigra*, wild service tree *Sorbus torminalis* or similar.
- 6.38 As such it is considered that the interests of protected species have been properly taken into account in accordance with the provisions of the NPPF and policy DM3 of the local plan.

Other matters:

- 6.39 The Parish Council refers to policies contained in the Headcorn Neighbourhood Plan. However as this plan has not been adopted it is not possible to take it into account as a material consideration in the determination of this application. Whilst in outline form the submitted indicative plans demonstrate that the site can successfully accommodate 4 dwellings
- 6.40 Surface water drainage will be dealt with via a SUDS in order to attenuate water run off on sustainability and flood prevention grounds and is a matter that can also be dealt with by condition.

Public Sector Equality Duty:

- 6.41 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Environmental Impact Assessment:

- 6.42 The proposal needs to be 'screened' regarding whether it should have been accompanied by an Environmental Impact Assessment (EIA).
- 6.43 As the site does not fall within an Area Outstanding Natural Beauty nor does it exceed any of the Schedule 2 thresholds set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 no requirement for an EIA is identified. This conclusion does not imply support for the proposal which will be assessed below in accordance with normal planning criteria.

CONCLUSIONS

- 7.1 The proposal involves the removal of a potentially unneighbourly commercial development while it has been demonstrated that the site is capable of accommodating 4 dwellings as a minor infill in a manner that is acceptable in its amenity, highways, flooding and wildlife impacts. It will also make a contribution towards meeting housing supply in the Borough.

7. RECOMMENDATION

GRANT planning permission subject to the following conditions:

22. The development shall not commence (including demolition) until approval of the following reserved matters has been obtained in writing from the Local Planning Authority: -a. Appearance b. Landscaping c. Layout and d. Scale 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.

23. Prior to any part of the development hereby approved reaching damp proof course details of a sustainable surface water drainage scheme (including its long term maintenance) shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out before first occupation of any of the dwellings hereby approved and retained in accordance with the approved details at all times thereafter.

Reason: In the interests of pollution prevention, sustainability and flood prevention.

24. Prior to the development hereby approved reaching damp proof course samples of materials (which shall include those to be used for parking, turning and pedestrian walkways) to be used in the construction of all external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended) no windows shall be installed above first floor level in the west facing elevation of any dwelling abutting the boundary with 1 Kings Road.

Reason: To maintain privacy in the interest of amenity

26. Prior to the development hereby approved commencing (including demolition) a scheme for the provision and management of an 8 metre wide buffer zone alongside

the watercourse shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

- plans showing the extent and layout of the buffer zone.
- details of any proposed planting scheme (for example, native species of local genetic provenance and suited to the catchment character).
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- details of any proposed footpaths, fencing, lighting, etc.

The development shall be carried out in accordance with the the approved scheme. The buffer zone shall be kept free from built development including lighting, domestic gardens and formal landscaping except as may be approved in connection with the management scheme.

Reason: In the interests of wildlife.

27. Landscaping details submitted pursuant to condition 1 above shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

28. The approved landscaping associated with individual dwellings shall be in place at the end of the first planting and seeding season following occupation of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following occupation of the final unit. Any trees or plants, which, within a period of 5 years from the occupation 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.

Reason: In the interest of visual amenity of the area.

29. The development hereby approved shall not commence (including demolition) until details of an Arboricultural Method Statement (which shall include tree protection measures) prepared in accordance with the current edition of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

30. The parking/turning areas approved pursuant to condition 1 shall be completed before first occupation of any of the dwelling hereby approved and shall thereafter be kept available for such use. No development, whether permitted by the Town

and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them or restricting the emergency access through the site.

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

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

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall thereafter be implemented as approved.

Reason: To prevent harm to human health and pollution of the environment.

32. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in point 3 of the preceding condition. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To prevent harm to human health and pollution of the environment.

33. Prior to the commencement of development (including demolition) hereby permitted details shall be submitted to and approved in writing by the Local Planning Authority demonstrating the bat roosting features detailed within the mitigation strategy will be incorporated into the new buildings and surrounding trees. The full bat mitigation strategy, as detailed in the Bat Emergence Survey Report dated the 22nd September 2019, along with measures to enhance the site for bats shall be implemented in full, prior to first occupation of the approved dwellings and shall be thereafter retained.

Reason: In the interests of wildlife.

34. The ecological enhancements and mitigation measures recommended specified in the preliminary Ecological Appraisal dated July 2019 shall be carried out as specified.

Reason: In the interests of wildlife.

35. Prior to any part of the development hereby approved reaching damp-proof course a bat sensitive lighting plan for the site boundaries shall be submitted to and approved in writing by the local planning authority. Lighting shall only be installed in accordance with the approved details and retained as such for the life of the development.

Reason: In the interests of wildlife.

36. Prior to any part of the development hereby approved reaching roof level details of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority to include gaps for the passage of wildlife. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of privacy and visual amenity.

37. Other than those approved as part of the preceding condition and notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road;

Reason: To safeguard the open plan character and appearance of the development.

38. Prior to first occupation of each dwelling a minimum of one electric vehicle charging point shall have been installed for the benefit of the occupier of that dwelling with the charging point thereafter retained for that purpose.

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

39. Prior to the commencement of development (including demolition), a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

40. The development hereby approved shall be carried out in accordance with the following plans nos: DHA/13772/01- 09 (consec) and H-01 rev P1.

Reason: In the interests of amenity.

INFORMATIVES

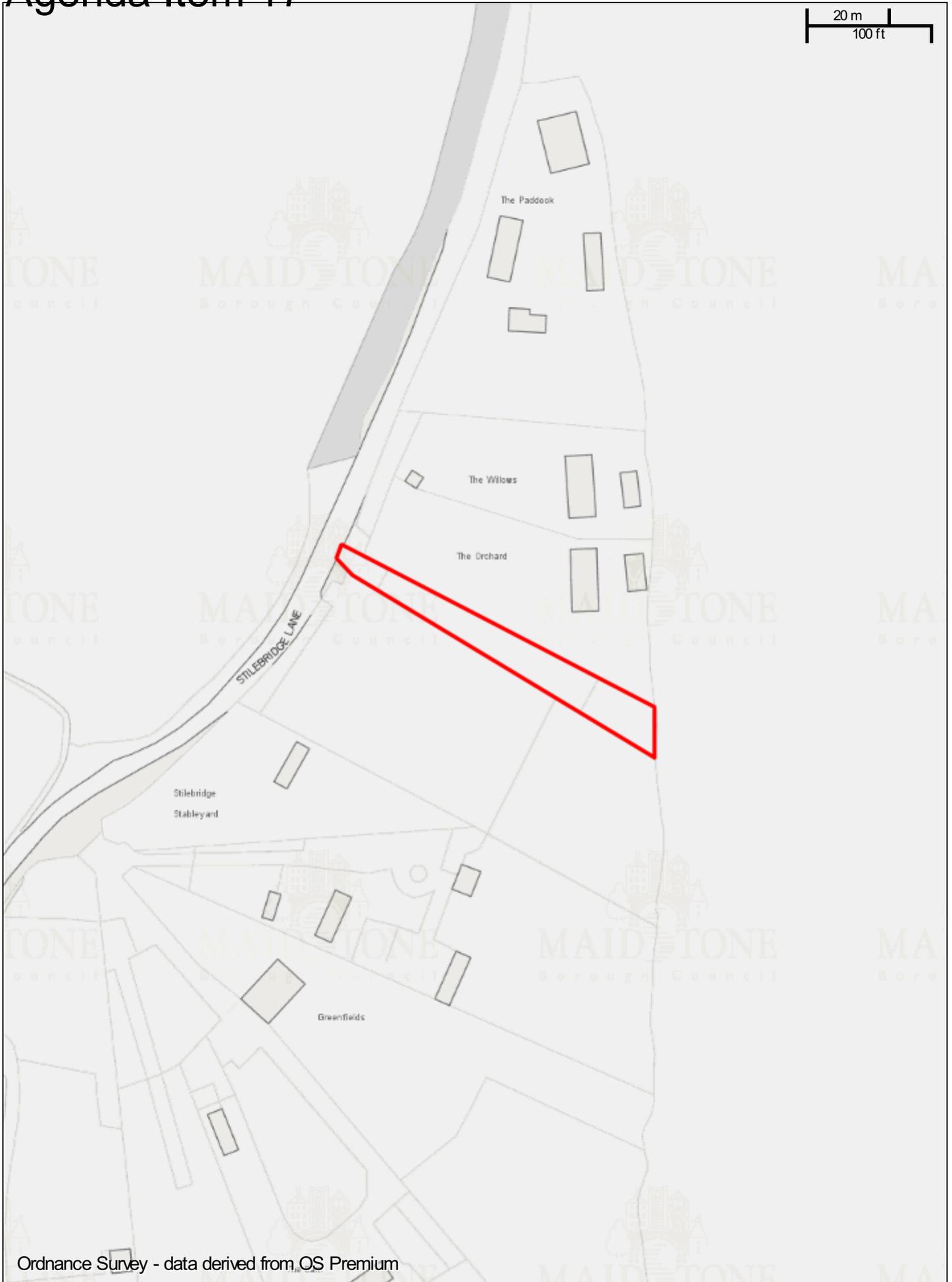
- 1) The proposed development is Community Infrastructure Levy liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 2) Details submitted pursuant to condition 13 will need to address the following matters:
 - The Bat Conservation Trust's Guidance Note 8 'Bats and artificial lighting' in the UK should be adhered to in the lighting design for the works undertaken and the new dwellings built.
 - Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
 - Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species

using their territory (including details of light spill which shall not exceed 1LUX on the vegetated boundaries).

- 3) The mitigation strategy must be implemented as approved unless varied by a European Protected Species (EPS) license issued by Natural England.
- 4) 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>
- 5) 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.

Case Officer: Graham Parkinson

Agenda Item 17



Ordnance Survey - data derived from OS Premium

REFERENCE NO - 19/500200/FULL			
APPLICATION PROPOSAL Retrospective application for a change of use of land to be used as a gypsy/traveller caravan site consisting of one pitch.			
ADDRESS Little Paddocks Stilebridge Lane Linton Kent ME17 4DE			
RECOMMENDATION Grant Planning Permission subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of Gypsy and Travellers contained within Government Guidance. • Significant weight must be given to child welfare and the need to provide a stable background in the planning balance. • The visual, landscape and amenity impacts are acceptable. • The proposal will provide a valuable windfall addition to the stock of Gypsy and Traveller sites and assist in meeting the need for Gypsy and Traveller sites set out in the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) and policy SS1 of the local plan 			
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Linton Parish Council as set out at paragraph 5.1 of this report.			
WARD Coxheath And Hunton	PARISH/TOWN Linton	COUNCIL	APPLICANT Mrs. C McCann AGENT Murdoch Planning Ltd
TARGET DECISION DATE 10/03/20 (EOT)		PUBLICITY EXPIRY DATE 27/02/19	

MAIN REPORT

1. BACKGROUND

- 1.1 This application was considered by the Planning Committee at its meeting on the 25th July 2019 (Report attached as **Appendix 1**) where it was resolved to defer consideration. This report is intended as a supplement to the earlier report.
- 1.2 The reason for deferral was to allow: "*...further negotiations with the applicant to secure a revised site layout/landscaping plan showing parking/hardcore to the entrance of the site and extending inwards with an amenity area towards the rear part of the site which would be suitable for the needs of existing/future occupants*".
- 1.3 The site layout originally considered showed two touring caravans and utility block in the form of a shipping container located in the south east corner of the site. These structures were sited within an area identified as part of the proposed driveway and parking areas. Access onto Stilebridge Lane was via a long narrow driveway with a narrow strip of landscaping on the north east site boundary.
- 1.4 Revised plans submitted to address Members concerns show the touring caravans and container body moved closer to the south east (rear) end of the site and set within a proposed grassed area.
- 1.5 The driveway and parking area abutting to the north west (front) of the site terminates in a turning head with two tandem parking spaces sited abutting the north east site boundary and set within a landscaped strip running along the north west site boundary.

- 1.6 The following summarised information has been submitted in support of the revised layout by the applicant:
- Reversing onto a public highway is not a desirable manoeuvre and most Highway Authorities will raise an objection should it not be possible for a vehicle to enter and leave a site in a forward gear.
 - The normal vehicle requiring access to this site would be a car. However, it is possible that a slightly larger commercial vehicle may be used by gypsies/travellers living within the site in association with their work.
 - It is relatively common for a planning condition to be imposed which limits the largest vehicle to be parked within the site to be 3.5 tonnes. Basically, this is either a rigid pick-up or van like a Ford Transit but with 4 wheels on the back axle rather than 2 (to carry the additional load). Depending upon whether it is a standard or 3.5t vehicle with single or double cab, the turning radii typically vary between 5.45 – 7.9m.
 - This may be compared with a Range Rover (6.7m) and the smaller Range Rover Evoque (5.95m).
 - The turning radii of these commercial vehicles are not substantially worse than a large passenger car / SUV, which are increasingly used on the road network and within public and multi-story car parks etc.
 - The turning area shown on the plan has been positioned as close to the public highways as possible whilst retaining enough space to physically turn a vehicle, to make sure it can enter and leave the site in a forward gear.
 - The turning area shown on plan extends approximately 6m towards the touring caravan at the south side and is around 3.8m wide.
 - This may be compared with a standard 2.4m x 4.8m parking space.
 - This provides enough space for a vehicle entering the site to turn towards the north then swing right using the additional width of the area to angle the vehicle towards the perpendicular area to the north that it would ultimately reverse into (or vice-versa).
 - That provides a length of around 8.4m (including the access track) to manoeuvre within.
 - Given a standard car park circulatory area is just 6m wide, and vehicles can turn within those, there is no reason to believe that anybody who is legally allowed to drive and reasonably competent could not turn in the area provided, in order to allow them to enter and leave the site in a forward gear.
 - Similarly, the parking spaces indicated in the plan are 7.0m x 2.5m. These are 1m longer and 0.5m wider than a standard parallel parking space, in order to accommodate the potential requirement to park the slightly larger commercial vehicle on site, should the need arise.
 - When assessing the adequacy of the proposed layout, it should also be remembered that, unlike on a public highway, even if the driver is less proficient/competent and needs to shuffle back and forth to make the turn in the area available, the only person they would inconvenience is themselves.
 - Whilst it would be possible to extend the driveway further into the site to increase the size of the turning area, this would obviously encroach upon the amenity space provided around the caravans, which is considered to remain an acceptable area based on the current layout.
 - Similarly, it would be possible to place the turning area between the two caravans by moving the western caravan westwards, but this would introduce manoeuvring traffic and therefore potential for conflict in what is currently a space segregated from vehicle activity where people may currently interact and move in a safe environment.

2. APPRAISAL

- 2.1 To enable the caravans to have an improved setting and not be surrounded by vehicles and hardstanding the applicant was advised to investigate the removal of

parking from the residential part of the site. As such parking was to be resited close to Stilebridge Lane with the remaining much larger /wider part of the site clearly differentiated to provide a separate amenity area for the caravans.

- 2.2 The revised layout now shows the caravans and van body sited within a grassed area clearly separate area from the proposed driveway and parking areas. The applicant contends that the turning area shown on the plan has been positioned as close to the public highway as possible whilst retaining enough space to physically turn a vehicle. The applicant has stated that this will ensure sufficient room for vehicles to enter and leave the site in a forward gear on highway safety grounds.
- 2.3 This arrangement means that a significant part of the site will remain as a driveway and parking area with some landscaping. However given the narrow width of the site which gradually increases in width towards the south east does not permit provision a turning head until some distance into the site.
- 2.3 In light of the considerations outlined the revised layout provides an improvement to the previously submitted layout that takes account of highway safety, landscape and amenity concerns.
- 2.4 Members are reminded that the Council has no adopted planning standards relating to the design and layout of Gypsy and Travellers sites. In addition Gypsy and Travellers sites are often characterised by close family groupings containing areas of hardstanding/vehicle parking/turning areas with little clear definition between these and what could be considered as amenity space.
- 2.5 As such in the absence of demonstrable harm to the wider area and given the site constraints it is considered the revised layout provides an acceptable residential environment in accordance with the provisions of policy DM1 of the local plan.

3.0 CONCLUSIONS:

3.1 The key conclusions are as follows:

- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of Gypsy and Traveller's contained within Government Guidance.
- Significant weight must be given to child welfare and the need to provide a stable background in the planning balance.
- The visual, landscape and amenity impacts are acceptable.
- The proposal will provide a valuable windfall addition to the stock of Gypsy and Traveller sites and assist in meeting the need for Gypsy and Traveller sites set out in the GTAA and policy SS1 of the local plan

3.2 As such and notwithstanding the site is subject to an extant enforcement notice (and which is the subject of an appeal), for the reasons set out above it is considered enforcement action should not be pursued and planning permission should be granted.

4 RECOMMENDATION

GRANT planning permission subject to the following conditions:

1. The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependents, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application.

2. No more than 2 touring caravans, (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.

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

3. Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;
Reason: To safeguard the night time rural environment.
4. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land.
Reason: In the interests of the visual amenity.
5. The landscaping and planting proposals shown on drawing number TDA.2387.01 shall be implemented by the end of the first available planting season (October to February) following the granting of planning permission. Any planting becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the same size and species in the same location.

If the planting on drawing number TDA.2387.01 is not implemented by the end of the first available planting season (October to February) following the granting of planning permission, the use of the site for gypsy and traveller purposes shall cease, the touring caravan any hardstandings and other related development, and structures shall be removed and the site restored to its previous condition.

Reason: in the interests of visual amenity.

6. The development hereby approved shall only be carried out in accordance with drawing nos: TDA.2387.01 rev C and 02.
Reason: In the interests of amenity.

Case Officer: Graham Parkinson

Appendix 1

Planning Committee Report
25th July 2019

REFERENCE NO - 19/500200/FULL			
APPLICATION PROPOSAL Retrospective application for a change of use of land to be used as a gypsy/traveller caravan site consisting of one pitch.			
ADDRESS Little Paddocks Stilebridge Lane Linton Kent ME17 4DE			
RECOMMENDATION Grant Planning Permission subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
<ul style="list-style-type: none"> - Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of Gypsy and Travellers contained within Government Guidance. - Significant weight must be given to child welfare and the need to provide a stable background in the planning balance. - The visual, landscape and amenity impacts are acceptable. - The proposal will provide a valuable windfall addition to the stock of Gypsy and Traveller sites and assist in meeting the need for Gypsy and Traveller sites set out in the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) and policy SS1 of the local plan 			
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Linton Parish Council as set out at paragraph 5.1 of this report.			
WARD Coxheath And Hunton	PARISH/TOWN Linton	COUNCIL	APPLICANT Mrs C McCann AGENT Murdoch Planning Ltd
TARGET DECISION DATE 01/04/19		PUBLICITY EXPIRY DATE 27/02/19	

Relevant Planning History

The following applications refer to land immediately abutting the northern and southern boundaries of the application site.

18/502028/FULL – (Land North Of Stilebridge Stableyard Stilebridge Lane) Change of use of the land to accommodate 3 Static Caravans, 3 Touring Caravans, and parking for six vehicles, with associated hard and soft landscaping, cesspit, and alterations to an existing access. This permission permits the permanent use of the site for Gypsy and Traveller accommodation. Granted 11.06.2018

14/506183/FULL - (Stilebridge Paddock, Stilebridge Lane) Stationing of 2 mobile homes, utility block, touring caravans and stables and open paddock area. This permission also permits the permanent use of the site for Gypsy and Traveller accommodation. Granted 11.12.2015.

Appeal & enforcement history (Application site, Little Paddocks)

An enforcement notice was issued on the 9 May 2017 in respect of the unauthorised siting of two caravans and one container for residential use, and the laying of hard surfacing. The enforcement notice was subsequently withdrawn on the 6 June 2017 on the basis that the applicant would submit a retrospective planning application within 6 weeks.

As no planning application was forthcoming an enforcement notice was reissued on the 19 October 2018. The applicant has submitted an appeal against that enforcement notice and the council are currently awaiting an appeal start date from the Planning Inspectorate.

In November 2018 an officer visit found all buildings removed from the site. The current planning application for retrospective permission was submitted in February 2019. The application was described on the application form as a change of use of land to be used as a gypsy/traveller caravan site consisting of one pitch. The submitted plans show two touring caravans and an 'utility block' which the applicant has recently confirmed is a washroom and toilet in a portacabin type building.

3. SITE DESCRIPTION:

- 1.1 The site comprises a long narrow area surfaced with hardcore enclosed by closeboarded fencing with access onto Stilebridge Lane. It is currently occupied by two touring caravans the closest of which is set back by 90 metres from Stilebridge Lane.
- 1.2 Abutting the site to the north east (14/506183/FULL) and to the south west (18/502028/FULL) are existing lawful Gypsy and Traveller sites.
- 1.3 In a wider context the site lies within an isolated grouping of Gypsy and Traveller development falling within open countryside.

4. PROPOSAL

- 2.1 The application was described on the application form by the applicant as a change of use of land to be used as a gypsy/traveller caravan site consisting of one pitch.
- 2.2 The submitted plans show two touring caravans and an 'utility block' which the applicant has recently confirmed is a washroom and toilet in a portacabin type building.
- 2.2 Landscaping details have been submitted showing retention/extension of a native species hedgerow running the full length of the south west site boundary and a proposed native species hedgerow running along much of the length of the north east site boundary with native species trees sited abutting this hedgerow.

5. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 SS1, SP17, DM15 DM30
Supplementary Planning Documents Planning Policy for Traveller Sites (PPTS)

6. LOCAL REPRESENTATIONS

Local residents:

- 4.1 No representations received from local residents.

7. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

- 5.1 Linton Parish Council objects to the proposal on the following summarised grounds:
 - Application should be refused for the same reasons as application ref:17/505888
 - Application retrospective and allowing the development to remain will harm the rural character of the area.
 - Not aware of an updated case of need put forward by the applicant supporting the proposal.

Officer comment:

- 5.2 Application 17/505888 relates to land to the south of the current application site (Land North East Stilebridge Stableyard, Stilebridge Lane). The application refused planning permission on the 24 January 2018 related to a much larger proposal on a larger site for 5 pitches for Gypsy/Traveller accommodation. The stationing of 6 static mobiles and 5 day rooms with associated hard and soft landscaping.
- 5.3 As the application did not include evidence that the proposal was for gypsy and traveller accommodation, this application was not considered against the exceptions within policy DM15 and was refused on the ground of landscape harm and the unsustainable location.
- 5.4 The current application is materially different to this earlier refusal for several reasons. Whilst it is limited, gypsy and traveller evidence has been submitted with the current application and the current proposal is on a substantially smaller site, and for a smaller number of caravans. On this basis the grounds for refusal of this nearby site do not apply to the current application site.

8. APPRAISAL

Main issues

- 6.1 The main issues in relation to this application are considered to be
- The principle of development;
 - Need for gypsy sites;
 - 5 year supply;
 - Gypsy and traveller status;
 - Landscape impact;
 - Cumulative impacts;
 - Sustainability;
 - Amenity;
 - Wildlife;
 - Human rights and equality

Principle of development

- 6.3 The application site is located in open countryside and with the proposal including gypsy and traveller accommodation the development is subject to the following local plan policies.
- 6.4 Policy SP17 of the Local Plan states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted.
- 6.5 Policy DM15 states that planning permission for Gypsy and Traveller development will be granted if it would not result in significant harm to the landscape and rural character of the area. In addition development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and also that wildlife considerations are taken into account.
- 6.6 Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features. The policy states that impacts on the appearance and character of the landscape will be appropriately mitigated and 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 reflecting the landscape character of the area.
- 6.7 There is also Government guidance contained within 'Planning Policy for Traveller

Sites' (PPTS) amended in August 2016. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

- 6.8 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit Gypsy and Traveller sites to be located in the countryside as an exception to the general development restraint policies.

Need for Gypsy Sites

- 6.9 The Gypsy and Traveller and Travelling Showpeople Accommodation Assessment: (GTAA) Maidstone (January 2012) provides the evidence of the need for Gypsy and Traveller pitches in the borough for the Local Plan period to 2031. This assessment identified a need for a total 187 additional permanent pitches in the borough 2011-31.

- 6.10 This assessment was undertaken prior to the change to the definition of Gypsy and Travellers in the Planning Policy for Traveller sites (PPTS) in August 2015 to exclude those who have permanently ceased travelling. At the Local Plan Examination the Inspector concluded the changed definition would result in relatively little change to the needs figure and confirmed it provided an adequate evidential base for the local plan. A new GTAA will be prepared to support the Local Plan Review. Work on the new the GTAA is currently programmed to commence in September 2019 and be completed by March 2020.

- 6.11 The local plan provides for the 187 pitch requirement through;
- The permanent planning consents which have already granted
 - Specific site allocations in Policy GT1(1)-(16) for a total of 41 pitches (some of these have now been granted planning permission)
 - Application of Policy DM15 for applications on windfall sites.

- 6.12 The Local Inspector noted that the Local Plan Review will be the time to make further site allocations should windfall sites not come forward as expected.

- 6.13 In the period between 1st October 2011 and the 31st March 2019, 173 pitches have been granted 'permanent' planning permission (148+25). These contribute to the local plan target of 187 pitches.

- 6.14 The types of permission including temporary permissions are as follows:
Permanent consent – 148 pitches
Permanent consent with personal condition – 25
Consents with temporary condition- 4
Consent with temporary/personal conditions- 37

5 -year supply

- 6.15 Paragraph 27 of the PPTS advises that where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

- 6.16 The Council can demonstrate a 7.7 years supply of pitches at 1st April 2019 and as a result paragraph 27 of the PPTS is not relevant in this case.

Gypsy and Traveller Status

- 6.17 The following information was submitted to address this. Members are reminded Data Protection legislation requires this information to be anonymised.
- The site is occupied as one household by persons who are both Annex 1 Travellers.
 - The site is occupied by two working age adults (husband and wife) and two pre-

- school age children.
 - One working age adult has their travelling restricted to fulfil childcare obligations.
 - The other working age adult is self employed as a landscaper which includes ground and block paving works and travels for up to 6 months each year in pursuit of such employment and is away from the site for weeks at a time in search of, and undertaking work.
- 6.18 As mentioned at paragraph 6.10, the planning definition of 'Gypsy and Travellers as set out in the PPTS (Planning Policy for Traveller sites), has been amended to exclude those who have ceased to travel permanently. Annex 1 of the PPTS defines Gypsies and Travellers as :-
- "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such."*
- 6.19 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependent's health or education needs or old age.
- 6.20 To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.21 The information provided on the Planning Policy for Traveller sites status of the site occupants is limited. However unless the Council is in possession of evidence refuting their occupants claims of an existing nomadic working lifestyle, intention to continue this lifestyle or that they are no longer able to continue the lifestyle due to age or infirmity, such claims must be taken at face value. To go beyond this may expose the Council to claims of being discriminatory in its dealings with Gypsy and Traveller applications.
- 6.22 As such it is considered that based on the submitted details the site occupants are Gypsies and Travellers that have led, and will continue to lead a nomadic lifestyle in pursuit of work and therefore fall within the revised Gypsies and Traveller definition set out above.
- Landscape Impact:**
- 6.23 Mobile homes are generally considered visually intrusive development that are out of character in a countryside setting. Consequently, unless well screened or hidden away in unobtrusive locations, they are normally considered unacceptable in their visual impact. As such they are normally only permitted where they are screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 6.24 Guidance in the PPTS (Planning Policy for Traveller sites) states that Local Planning Authorities should strictly limit new Gypsy and Traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure.
- 6.25 Policy SP17 states amongst other things, that development in the countryside will not be permitted if it will result in harm to the character and appearance of the area. Policy DM15 specifically relating to Gypsy and Traveller development, states,

amongst other things, that permission will be granted if a site would not harm the rural character and landscape if an area due to cumulative visual impacts and is well screened by existing landscape features. Policy DM30 also requires that account should be taken of the Maidstone Borough Landscape Character Guidelines SPD.

- 6.26 The Maidstone Landscape Character Assessment (amended July 2013) shows the site falling with the Beult Valley, an area identified as having the following landscape characteristics:
- Low lying broad shallow valley of the meandering River Beult and Hammer Stream within the Low Weald
 - Many ponds and watercourses with important ecological interest
 - Species rich native hedgerow field boundaries with mature oak trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed
 - Mixed agriculture with large fields supporting arable cultivation and small riverside fields with pasture
 - Sparsely scattered smallwoodlands
 - Historic north-south crossing points with ragstone bridges over the River Beult
- 6.27 The current application must be viewed in the context of existing lawful Gypsy and Traveller development that has taken place in the locality as follows. Immediately abutting the site to the south, planning permission was granted under ref: 18/502028 for the change of use of the land to accommodate 3 Static Caravans, 3 Touring Caravans, and parking for six vehicles, with associated hard and soft landscaping, cesspit, and alterations to an existing access. This permission permits the permanent use of the site for Gypsy and Traveller accommodation.
- 6.28 Abutting the site to the north under ref: 14/506183/full planning permission was granted for the stationing of 2 mobile homes, utility block, touring caravans and stables and open paddock area. This permission also permits the permanent use of the site for Gypsy and Traveller accommodation.
- 6.29 The application now under consideration is therefore between lawful Gypsy and Traveller sites. Given the narrowness of the site, scale of the development and character of adjoining development along with existing and proposed landscaping, it is considered that no additional harm to the landscape or rural character of the area occurs as a result of the continued use of this site for Gypsy and Traveller purposes as currently being carried out. It is also considered the development does not have any material impact on the landscape characteristics of the Beult Valley described above.
- 6.30 As a consequence the development is considered to meet the visual requirements of policy DM15 in that it will not result in material harm to the rural and landscape quality of the area and is in accordance with policies SP17 and DM30 of the local plan.
- Cumulative Impacts:**
- 6.31 Guidance in the PPTS states that Local Planning Authorities should strictly limit new Gypsy and Traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and or place undue pressure on local infrastructure. In addition policy DM15 of the Local plan states, amongst other things, that permission will be granted if a site would not harm the rural character and landscape of an area due to cumulative visual impacts.
- 6.32 Dealing first with the whether the development dominates the nearest settled community given the modest number of persons involved in the development this would not be the case.

- 6.33 Regarding cumulative visual impacts, for the reasons set out above no harm is identified to the development on these grounds.

Sustainability

- 6.34 Gypsy and Traveller sites are mainly located in the countryside and guidance acknowledges this. Nevertheless policy DM15 states, amongst other things, that local services, in particular school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.

- 6.35 It is acknowledged the site occupies an isolated rural location remote from public transport and services. However as its siting is no worse than the adjoining Gypsy and Traveller development which was granted planning permission it is considered there is no grounds object to the development on unsustainable siting grounds

Amenity:

- 6.36 There are no nearby dwellings experiencing direct loss of outlook or amenity from the development.

Wildlife

- 6.37 Though development should be used an opportunity to bring about wildlife improvements, the retrospective nature of the development means there is limited potential here. However the intention to provide additional native species planting will provide additional screening while contributing to wildlife habitat in the locality proportionate to the scale and impact of the development.

Human Rights and Equality

- 6.38 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.

- 6.40 The site is intended to be occupied by two working age adults (husband and wife) and two pre- school age children. Apart from the need to provide a settled base for the applicant's pre- school age children, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the development on land in this countryside location.

Other matters:

- 6.41 Government Guidance states that planning applications submitted retrospectively is a material consideration that should be taken into account in determining such applications. However, guidance on how much weight this should be given is not clear. Furthermore the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such, when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.

- 6.42 The Parish Council refers to application ref:17/505888 for the change of use of the land for 5 pitches for Gypsy and Traveller accommodation along with the stationing of 6 static mobiles and 5 day rooms with associated hard and soft landscaping. This application was refused on lack of evidence relating the Gypsy and Traveller status of the site occupants, unjustified harm to the rural character and setting of the area and unsustainable siting.

- 6.43 However a revised application was submitted and approved in June 2018 for

essentially the same site area under ref: 18/502028 for the change of use of the land to accommodate 3 Static Caravans, 3 Touring Caravans, and parking for six vehicles, with associated hard and soft landscaping, cesspit, and alterations to an existing access.

- 6.44 The development needs to be screened as to whether it should have been accompanied by an Environmental Impact Assessment. It is not considered the development is of a scale or impact justifying an Environmental Impact Assessment. It should be stressed this is a technical assessment having no bearing on the consideration of the planning merits of the development carried out above.

7.0 CONCLUSIONS:

- 7.1 The key conclusions are as follows:

- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of Gypsy and Traveller's contained within Government Guidance.
- Significant weight must be given to child welfare and the need to provide a stable background in the planning balance.
- The visual, landscape and amenity impacts are acceptable.
- Will provide a valuable windfall addition to the stock of Gypsy and Traveller sites and assist in meeting the need for Gypsy and Traveller sites set out in the GTAA and policy SS1 of the local plan

- 7.2 As such and notwithstanding the site is subject to an extant enforcement notice (and which is the subject of an appeal), for the reasons set out above it is considered enforcement action should not be pursued and planning permission should be granted.

7 RECOMMENDATION

GRANT planning permission subject to the following conditions:

7. The site shall only be used as a caravan site for gypsies or Travellers and their family and/or dependents, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application.

8. No more than 2 touring caravans, (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed on the site at any time.

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

9. Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the night time rural environment.

10. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land.

Reason: In the interests of the visual amenity.

11. The landscaping and planting proposals shown on drawing number TDA.2387.01

27 February 2020

shall be implemented by the end of the first available planting season (October to February) following the granting of planning permission. Any planting becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the same size and species in the same location.

If the planting on drawing number TDA.2387.01 is not implemented by the end of the first available planting season (October to February) following the granting of planning permission, the use of the site for gypsy and traveller purposes shall cease, the touring caravan any hardstandings and other related development, and structures shall be removed and the site restored to its previous condition.

Reason: in the interests of visual amenity.

12. The development hereby approved shall only be carried out in accordance with drawing nos: TDA.2387.01 and 02.

Reason: In the interests of amenity.

Case Officer: Graham Parkinson

Agenda Item 18



19/504348/FULL - Land at Rosemead Nursery

Scale: 1:2500

Printed on: 19/2/2020 at 10:37 AM by StevieH

REFERENCE NO - 19/504348/FULL			
APPLICATION PROPOSAL Demolition of existing buildings and erection of 13 detached, two storey dwellings to be developed as self-build or custom-built homes by individual owners. Creation of access roads, associated parking and turning areas and the creation of a footpath link to Maidstone Road; along with landscaping and ecological enhancement works.			
ADDRESS Land at Rosemead Nursery Maidstone Road Headcorn Kent TN27 9RT			
RECOMMENDATION Grant planning permission subject to a legal agreement to secure affordable housing and planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • The location of the site next to existing housing and its redevelopment for housing will secure an environmental uplift for the residents of Rosemead Gardens, provide housing in a sustainable location while making a significant contribution to addressing the unmet need for Self Build and Custom Housing. • The proposal will not result in any material harm to the landscape and rural character of the locality. • The proposal Is acceptable in design, layout and amenity terms. • The proposal addresses highway, wildlife and flooding considerations in an acceptable manner. • As such the balance of issues fall significantly in favour of the proposal. 			
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Headcorn Parish Council as set out in the consultation section			
WARD Headcorn	PARISH/TOWN Headcorn	COUNCIL	APPLICANT Clarendon Homes AGENT Clarendon Homes
TARGET DECISION DATE 05/03/20		PUBLICITY EXPIRY DATE 24/01/20	

No Relevant Planning History

MAIN REPORT

1. SITE DESCRIPTION

- 1.1. The application site having an area 0.95 ha is occupied by a former nursery comprising greenhouses, a piggery, poultry buildings and agricultural machinery storage with access off Stonestile Road. The site ceased to operate as a livestock holding in 2012 with the growing of produce ceasing in 2015. All buildings on the site are now redundant with some in a dilapidated state.
- 1.2. Immediately abutting the site to the east is Rosemead Gardens a ribbon of detached housing fronting Headcorn Road with a further longer ribbon of housing opposite.
- 1.3. The application site is just over 1 km to the north of Headcorn and lies in open countryside forming part of the Low Weald Landscape of Local Value. Much of the southern and western part of the site is sited within a KCC minerals safeguarding area.

2. PROPOSAL

- 2.1 Permission is sought to redevelop the site for self build/custom house (SBCH) purposes. Planning permission was originally sought for 13 dwellings but this has since been reduced to 12.

- 2.2 The application is accompanied by detailed design and layout plans showing 3 detached houses facing onto the existing access drive from Stonestile Road. The access road then follows the southern site boundary before turning north into a cu-de-sac.
- 2.3 Also proposed is a footpath from the south west corner of the site to provide pedestrian shortcut to footpaths along Maidstone Road and then to Headcorn.
- 2.4 The proposal requires the removal of some trees. Replacement and mitigation is proposed via the provision of native hedgerows and individual specimen trees and retention of trees around the southern and western boundaries.
- 2.5 Accompanying the application is a design code which addresses layout, development form, height and scale; architectural composition, public realm and materials.
- 2.6 In particular the design specifies building heights, no building or structure to shall be erected within 1m of any plot boundary, parking barns to be single storey construction and all roof pitches of all buildings be between 40 and 45 degrees.
- 2.7 A detailed materials palette specifies the use multi stock red or multi red facing bricks, clay tiles for roofing and tile hanging being red/brown or multi-reds or brown, rendering and weather boarding.
- 2.8 Reports have also been submitted addressing landscaping, ecology, renewable energy, transport, minerals, contamination risk, flood risk and drainage.
- 2.9 The renewable energy assessment in particular recommends the use of renewable materials where possible, maximum insulation to reduce energy use and air source heat pumps to provide renewable energy.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 SS1, SP17, SP19, SP20, DM1, DM3, DM13, DM19, DM23, DM30,
Supplementary Planning Documents Maidstone Landscape Character Assessment
Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.1 Two representations received from local residents raising the following (summarised) issues
 - Loss of privacy to houses in Rosemead Gardens
 - Need to ensure that any boundary trees do not come to overshadow houses in Rosemead Gardens.
 - Will result in loss of outlook to properties In Rosemead Gardens – can currently look across site into countryside beyond and outlook across the existing buildings preferable to looking across a residential development
 - Does not understand reference to SBCH – also concerned that if left to individuals to construct will take excessive time to build out with houses being all shapes and sizes.
 - Site provides wildlife habitat which will be harmed/lost if proposed development is permitted.
 - Properties in Rosemead Gardens not on mains drainage – concerned that if proposed development also not on mains drainage but is serviced by cess pits could increase potential for flooding in an area having a high water table.
 - Site access is from Stonestile Road – this road regularly floods and situation will be made worse by the proposed development.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

- 5.1 **Headcorn PC:** Objection Based on the current information wish to see the application refused
- 5.2 **Kent Highways:** No objection subject to conditions to secure a construction management plan, electric car charging for each unit, provision of access, on site parking and turning and completion and maintenance of the footpath and uncontrolled crossing details to the south-east of the site prior to the use of the site commencing. The applicant will need to enter into a S278 agreement with Kent Highways regarding provision of the access and the proposed footpath to Maidstone Road.
- 5.3 **MBC Landscape:** No objection subject to conditions. No protected trees on, or immediately adjacent to, this site but there are significant trees around the periphery of the site, particularly on the western and southern boundaries.

The submitted Arboricultural Report is acceptable in principle subject to a pre-commencement condition requiring a detailed Arboricultural Method Statement (AMS) in accordance with BS5837 which needs to consider demolition activities, road construction and all services and drainage and details of landscaping.

The Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015 considers the Headcorn Pasturelands to be of high overall landscape sensitivity and sensitive to change. It states that development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with existing. Other development could be considered to support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.

The relevant guidelines and mitigation for this area are as follows:

- Consider the generic guidelines for the Low Weald in the Maidstone Landscape Character Assessment 2012.
- New development should respect the local vernacular in scale, density and materials.
- Conserve the abundance of oak as a dominant species, and plant new isolated oaks within pasture and hedgerows to replace ageing population.
- Conserve and enhance the small scale field pattern and sense of enclosure
- Conserve the largely undeveloped rural landscape
- Resist infill linear development along Maidstone Road
- Enhance habitat opportunities around water bodies and ditches by promoting a framework of vegetation in these areas.

- 5.4 **Environment Agency:** No objection subject to conditions to address possibility of site contamination and to secure details of any SUDS or any penetrative foundations to ensure there is no risk to controlled waters.
- 5.5 **KCC Flood and Water Management:** No objection subject to conditions. There is no objection to surface water drained into permeable surfacing and outfall into an existing ditch running along the east side of the access road.
- 100 year storm event is acceptable and matches greenfield runoff for the 1 year event, there is no indication of post development discharge rates for the 1 year and 30 year rainfall events.
 - Recommend clarification whether all rainfall events are discharging to 3l/s.
 - Although an allowance of 20% climate change has been included in drainage calculations and storage requirements recommend a further sensitivity check to include an allowance of 40% climate change for the 100 year storm event.

- This increased threshold may indicate flooding on site, but this can be accommodated through a suitable exceedance plan demonstrating the volume of flooding on site and the route of overflow.
- Exceedance flood routes have already been demonstrated.
- The Environment Agency's Flood Map for Surface Water shows there is a surface water flow path running throughout the site and this should be considered when preparing drainage arrangements.
- An assessment of the ditch coupled with a CCTV survey of the existing culvert needs to be carried out to ensure there is adequate capacity and the receiving watercourse/culvert is in an appropriate condition without any blockages.
- To address the above details of a SUDS and surface water drainage should be secured.

5.6 **KCC Ecology:** Further information is needed regarding Great Crested Newts; Reptiles; Bats and Barn Owls.

Great Crested Newt

The ecology report has identified suitable Great Crested Newt (GCN) terrestrial habitat within the development site and the presence of suitable breeding ponds (one of which had confirmed GCN breeding in 2015) within 250m of the site. Therefore, as stated in the report, it is likely that this protected species will be negatively impacted in the absence of appropriate mitigation.

Further surveys required to establish the status of the GCN population in the area and to inform the Natural England licence which will most likely be required to undertake development works. Highlight that surveys cannot be undertaken until next year (March to July). Alternatively, Natural England's District Level Licence (DLL) scheme could be utilised.

Advise that either of the following be submitted to the local planning authority prior to determination of the application:

- GCN survey results and a suitable mitigation strategy;
- Confirmation of entry into the DLL scheme.

Reptiles

The ecology report states it is likely that reptiles are present within the development site due to the presence of suitable habitat on-site and relatively good habitat connectivity. As all species of reptile are protected, the report recommends that reptile surveys are undertaken to establish the status of the probable reptile population, which will then inform a suitable mitigation strategy.

Note that reptile surveys cannot be undertaken until next year (March to October). Advise that reptile surveys are undertaken with the results submitted to the local planning authority prior to determination of the application.

Bats

Whilst most of the structures on-site offer negligible roosting potential for bats, nine buildings were considered to have low roosting potential and four oak trees were considered to have high roosting potential.

As all bat species and their roosts are protected, there is a need to undertake bat emergence/re-entry surveys to establish if bats are utilising the buildings/trees (if the latter are to be impacted). This will inform the mitigation strategy and necessary licence acquisition from Natural England.

The bat survey results, along with any mitigation proposals, must be submitted to the local planning authority prior to determination of the application.

Barn Owls

Evidence of barn owls (pellets and droppings) were noted in two of the open barn structures on-site, suggesting that barn owls roost within the buildings. It is stated that the buildings are unsuitable for nesting.

As a protected species, a mitigation/compensation strategy must be implemented. The ecology report recommends measures, such as pre-works surveys and external roost provision.

Advise that further details of the barn owl mitigation strategy are provided, including the types of roost opportunities to be provisioned, as well as timings and locations which must be submitted to the local planning authority prior to the determination of the application.

Ecological Enhancements

In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. Enhancement recommendations have been made within the ecology report, however, as the results of the requested surveys/mitigation strategies (above) may influence the final enhancement plan, advise an enhancement plan is produced and submitted in conjunction with the survey results.

- 5.7 **Environmental Health Officer:** No objection subject to details of contamination, sound attenuation measures and lighting being secured.
- 5.8 **Headcorn Aerodrome:** Need to ensure that any development permitted does not constrain the lawful flying activities that are carried out.

6. APPRAISAL

Main Issues

6.1 The key issues for consideration relate to:

- Principle
- impact on the rural character and landscape quality of the area,
- design and layout
- amenity
- highways
- wildlife.
- Flooding

Principle

- 6.2 The site lies in open countryside falling within the Low Weald Landscape of Local Value. Given the past agricultural use of the site it does not fall within the definition of previously developed land (pdl). It is therefore subject to the countryside protection policies set out in the NPPF and the local plan.
- 6.3 The NPPF at paragraph 79 seeks to avoid isolated homes in the countryside. However given the proximity to adjoining housing to the east at Rosemead Gardens, housing on the opposite Maidstone Road and that the main Headcorn settlement is only a short distance to the south it is considered the site is not isolated. The sustainability of the location is considered later in this report.
- 6.4 Turning to local plan policies, policy SP17 paragraph 4.95 (forming part of the preamble to this policy) states, amongst other things, that the countryside has an intrinsic character that should be conserved for its own sake. Other relevant considerations are that development proposals in the countryside will not be permitted unless they accord with other policies in the local plan and will not result in harm to the character and appearance of the area.

- 6.5 In addition the distinctive landscape character of the Low Weald will be conserved and enhanced as a landscape of local value and separation of individual settlements will be retained.
- 6.6 Policy SP19 relating to housing mix requires, amongst other things, that large development schemes will be expected to demonstrate that consideration has been given to custom and self-build plots as part of the housing mix.
- 6.7 Policy DM30 sets out design principles in the countryside stating amongst other things that new buildings should, where practical, be located adjacent to existing buildings or be unobtrusively located and well screened by existing and propose vegetation reflecting the landscape character of the area. There is also a requirement to submit a Landscape and Visual Impact Assessment in appropriate circumstances.
- 6.8 Self build/custom housing (SBCH) is identified as an alternative means of housing provision which Councils are required to satisfy on the basis of 'demand' identified in the SBCH register. Policy SP19 above sets out the Councils current policy approach to SBCH.

Need for Self Build Housing:

- 6.9 The Self Build and Custom Housebuilding Act 2015 places a duty on the Council to keep a register of individuals and associations who wish to acquire serviced plots of land to secure this type of development. It also requires the Council to have regard to these registers in carrying out its planning and other functions while bringing an absolute requirement to make provision for SBCH identified in the accounting period.
- 6.10 The Self-Build register for the period 31 Oct 2018 to 30 October 2019 identified, amongst other things, 82 people having registered an interest in Maidstone. It should be noted only one SBCH scheme has currently been permitted at the Grafty Green Garden Centre for 14 dwellings ref: 15/505906/FULL. SBCH is also being delivered indirectly via CIL as since 1st October 2018 there have been 29 CIL exemptions approved for self builds. The guidance is not clear however as to whether meeting the need for SBCH by CIL exemption counts towards overall provision.

Housing Supply:

- 6.11 Turning to whether there is any support for the proposal in housing supply terms, policy SS1 of the local plan places considerable reliance on windfall sites in meeting a 5 year housing supply. The Council is currently able to demonstrate a 6.5 year supply of housing land.
- 6.12 Consideration of the proposal therefore rests turns on whether the provision of SBCH is so overriding in housing need terms as outweigh any harm that may be identified to the rural and landscape character of the area and whether this can be lessened by appropriate mitigation.
- 6.13 The application site lies within the countryside and being formerly in agricultural use is not classed as pdl. Its redevelopment for housing can therefore only be justified in policy terms on the basis of whether there are special circumstances applying both to the proposed use and the specific site circumstances which justify an exception being made here.
- 6.14 Dealing first with the site context, though currently vacant the possibility of the agricultural/nursery use recommencing cannot be discounted. If this were to occur houses abutting the site to the east could suffer noise, disturbance and visual intrusion. Redevelopment of the site for housing would prevent this from occurring while securing a use more compatible with the adjoining housing.

- 6.15 Regarding siting sustainability, the site is a short distance to the north of Headcorn. Maidstone Road is a heavily trafficked principal route used by public transport with bus stops nearby. There is a footpath on the opposite of Maidstone Road with some street lighting in the direction of Headcorn. The proposed development will be linked by footpath to Maidstone Road on a line running to the south of Rosemead Gardens.
- 6.16 Based on the above it is considered the site occupies a sustainable location in relation to local services and public transport. As such given the specific circumstances of the site next to existing housing, its redevelopment for Self build/custom housing (SBCH) is has the potential to secure an environmental uplift for the residents of Rosemead Gardens, will provide housing in a sustainable location while making a significant contribution to meeting the demand for SBCH.
- 6.17 The proposal is therefore considered acceptable in principle. Further assessment therefore turns on the detailed impacts of the proposed development.

Impact on the landscape character and rural setting of the locality:

- 6.18 The generic development guidelines for the Low Weald in the Maidstone Landscape Character Assessment 2012 are as follows.
- New development should respect the local vernacular in scale, density and materials.
 - Conserve the abundance of oak as a dominant species, and plant new isolated oaks within pasture and hedgerows to replace ageing population.
 - Conserve and enhance the small scale field pattern and sense of enclosure
 - Conserve the largely undeveloped rural landscape
 - Resist infill linear development along Maidstone Road
 - Enhance habitat opportunities around water bodies and ditches by promoting a framework of vegetation in these areas.
- 6.19 The design, density and layout of the development will be assessed later. The intention to retain and enhance existing boundary trees is in line with the guidelines. However given the existing developed nature of the site, its location behind existing housing fronting Maidstone Road and that the existing drainage ditch lies outside the application site area, the remaining guidelines do not easily apply to this site.
- 6.20 Turning to the wider landscape impacts, the Landscape and Visual Impact Assessment (LVIA) submitted with the application states the site has significant native tree planting along the west and south boundaries. The proposal will retain mature native oaks while replacing declining trees with semi-mature trees along the southern site boundary.
- 6.21 The LVIA concedes the site is visible from a footpath to the west but the proposed dwellings are likely to be well-screened from most viewpoints. A very small part of the built form, consisting of roofs will be just visible beyond existing and proposed tree planting.
- 6.22 The LVIA's key conclusions are that views from the surrounding countryside will be minimal with the existing mature native trees surrounding the site being effective in screening longer range views from footpaths to the west and south. In addition replacement tree planting and the continuing growth of native trees around the site periphery will develop to screen the proposal site from most viewpoints in the long term.
- 6.23 It is considered that subject to tree retention, additional landscaping as proposed along with controls over lighting the LVIA's conclusions can be supported. The impact of the proposal on the rural and landscape character of the Low Weald

Special Landscape Area is therefore acceptable and accords with policy SP17 of the local plan.

Design and Layout:

- 6.24 Dealing first with design, the generic guidelines for the Low Weald are that new development should respect the local vernacular in scale, density and materials. The design of the proposed individual dwellings, which will be safeguarded via the design code can be seen to broadly comply with these requirements.
- 6.25 It is acknowledged that in density and layout terms the development is suburban in character and if the site was in an isolated rural location this could be significant. The site is not in an isolated rural location with the proximity to Rosemead Gardens (which also suburban in character). With the limited harm to the wider landscape and need to optimise proposals for SBCH where site circumstances permit (having regard to the lack of provision to date in meeting the demand for SBCH) it considered the proposal is acceptable in scale and density terms.

Amenity

- 6.26 Dealing first with that of the future residents, in terms of block spacing, garden sizes and maintenance of privacy it is considered the development satisfies the provisions of policy DM1 of the local plan in relation to these matters. In terms of aural amenity, the Environmental Health Officer seeks assurances that future residents would not be materially affected by noise from traffic using Maidstone Road. As the site is set well back and separated from Maidstone Road by houses in Rosemead Gardens it is considered that, subject to details of sound attenuation measures being approved, the aural amenity of future site residents will be safeguarded.
- 6.27 Turning to the impact on the outlook and amenity of residents in Rosemead Gardens, with the size and design of the proposed dwellings 'back to back' separation distances of between 20 and 25 metres is considered sufficient to maintain reasonable levels of privacy and outlook in accordance with the provisions of policy DM1 of the local plan.
- 6.28 It should also be taken into account that if the agricultural use of the site was to be resumed this would be unconstrained in planning terms. As such a potentially extremely unneighbourly use could locate. The redevelopment of the site for residential purposes is therefore likely to provide far greater amenity safeguards to houses abutting the site in Rosemead Gardens.
- 6.29 Concern has been raised that redevelopment of the site will result in loss of outlook i.e. views across the site to open countryside beyond. However subject to development meeting the amenity provisions of policy DM1 in relation to maintaining sufficient outlook, the loss of a wider view is not a material consideration in the determination of this application.
- 6.30 Such an approach is not inconsistent with policy SP17 which seeks to protect the rural/landscape character of the area in the wider public interest rather than in the interests of good neighbourliness which is addressed by policy DM1.
- 6.31 The remaining amenity considerations relate the provision of the footpath to provide a pedestrian shortcut to Maidstone Road. This footpath will access directly onto Maidstone Road. There is no footpath on this side of the road though there is a footpath on the opposite. Public safety is a material planning consideration and Maidstone Road is a busy main route. **It is therefore essential that a crossing is provided and this will need to be negotiated with Kent Highways.**
- 6.32 There is also the issue of security. The proposed footpath will be just over 80 metres in length and lighting should be provided for security purposes.

- 6.33 There is also the need to provide security and privacy to properties abutting the footpath and a mix of landscaping and security fencing should address this.

Highways:

- 6.34 Vehicle access will be gained using the existing access onto Stonestile Road. Compared to the traffic generating capacity of the former nursery use it is not considered that peak hour traffic generated by 12 houses is likely to materially exceed this. As such in the absence of objection from Kent Highways it is not considered the proposal will result in material harm to the free flow of traffic or highway safety on local roads.
- 6.35 It should be noted that Kent Highways recommend a construction management plan condition. However this is a matter addressed by other legislation and guidance makes clear that planning conditions should not seek to duplicate controls available elsewhere.

Wildlife

- 6.36 Before the application is determined KCC Ecology require surveys of protected species identified on the site which may influence the wildlife enhancement plan which currently proposes the following measures:
- Provision of hedgehog nesting boxes
 - Provision of 12cm square gaps under any new fencing to allow hedgehogs access into all garden areas.
 - Provision of ready-made bird boxes (sparrow terrace timber boxes or house martin nests for instance 1 or mix of open-fronted and hole-nesting boxes and constructed from woodcrete)
 - Provision of bat roosting spaces within the new buildings
 - Provision of bat friendly planting within the gardens
 - Provision of owl boxes in trees
 - Establish climbing plants on walls and other vertical structures.
 - Establish wildflower plug/bulb planting in amenity grassland and private gardens.
 - Integration of Sustainable Drainage Systems.
 - Consider using grid mesh system (or Ground Reinforcement Grids) with topsoil and seeding with a wildflower species mix, to car parking areas and new access drives to retain some vegetation as well as drainage, or Gravel turf.
- 6.37 The applicants advise that they have carried out the requested surveys and this information has been forwarded to KCC Ecology. KCC Ecology's response to this additional information will be drawn to members attention as an update.

Flooding:

- 6.38 KCC Flood and Water Management advise it raises no objection in principle to surface water draining into permeable surfacing and decanting into an existing ditch running along the east side of the access road. This is subject to it being demonstrated that there is sufficient on site attenuation to ensure the capacity of the drainage ditch is not exceeded, details of which can be secured by condition.
- 6.39 The Environment Agency's (EA) concerns are mainly to do with ensuring ground water is not contaminated by the proposed development. The EA do not raise flood related concerns. In the circumstances it is considered there is no objection to the proposal on flood risk grounds.
- 6.40 Foul water from the proposed development will connect by gravity to an on-site package treatment plant. The treated effluent will outfall to the ditch within the site. An Environmental Permit will be submitted to the EA prior to works commencing to ensure such an approach does not pollute local watercourses.

Community infrastructure Levy contributions and affordable housing (AH)

- 6.41 SBCH is CIL exempt. Requests for other contributions must be assessed in accordance with Regulation 122 of the Act and any obligation must meet the following requirements being-
- (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development.
- 6.42 In this case AH must be provided in accordance with Policy SP20 of the local plan. As the site is located in a rural area 40% of the development should comprise AH unless it can be demonstrated that achieving policy compliant AH targets is not feasible on economic viability grounds.
- 6.43 The application is accompanied by a viability assessment (VA). Independent assessment of the VA concluded a contribution of £285,000 could be secured towards AH. On reassessment the applicants have increased their contribution to £240,000. As this results in a shortfall of £45,000 the applicant's revised offer has been referred back to the independent assessors and its response will be reported to members as an update.
- 6.44 It is acknowledged that AH should normally be provided on site. However as this is an SBCH scheme the inclusion of AH would go against the Governments intentions to widen the opportunities for individuals and organisations to provide housing in accordance with their own means and aspirations. If on site AH is not being provided provision in an off site scheme should be considered. No such scheme is identified. The purchase of nearby dwellings should also be considered. However even the maximum developer contribution is insufficient to purchase even a single dwelling in this area. Given the foregoing it is therefore appropriate to make provision for AH by means of a developer off site financial contribution secured by legal agreement.
- 6.45 As a final consideration, development of the site may require piling for all/some of the proposed dwellings resulting in a significant increase in costs. This would have to be met via a reduced AH contribution. Any legal agreement should therefore include a review mechanism addressing this eventuality.

Other matters

- 6.46 The development needs to be screened as to whether it should have been accompanied by an Environmental Impact Assessment. Given the scale and impact of the development it is considered it is not significant enough to justify an Environmental Impact Assessment. It should be stressed this is purely a technical assessment which has no bearing on the consideration of the planning merits of the development carried out above.

Public Sector Equality Duty

- 6.47 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Conclusions and balancing exercise:

- 6.48 The key conclusions are as follows:
- The location of the site next to existing housing and its redevelopment for housing will secure an environmental uplift for the residents of Rosemead Gardens, provide housing in a sustainable location while making a significant contribution to meeting the demand for SBCH.
 - Will not result in any material harm to the landscape and rural character of the locality.
 - Is acceptable in design, layout and amenity terms.

- Addresses highway, wildlife and flooding considerations in an acceptable manner.

6.49 It is therefore considered the balance of issues fall significantly in favour of the proposal and it is recommended that planning permission be granted as a consequence.

7. RECOMMENDATION

The Head of Planning and Development BE GIVEN DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):

- Contribution towards the provision of affordable housing (sum to be finalised) subject to a review mechanism in the event that all/some of the dwelling require piled foundations.

GRANT planning permission subject to the following conditions:

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

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

2. The development hereby approved shall only be constructed in accordance with the definition of self-build and custom housebuilding as set out in the Housing and Planning Act 2016 and in the first instance be occupied for period of no less than 3 years from the date of first occupation by the person/s who carried out/commissioned construction of the houses hereby approved.

Reason: To reflect the special circumstances of the case as the site is not allocated for new housebuilding or in an area where new housebuilding would normally be permitted.

3. Prior to any dwelling hereby approved reaching damp proof course level the access, highway layout, on site turning, visibility splays onto Stonestile Road (and within the application site) and footpath link to Maidstone Road shall all be provided as shown on drawing nos: PL01 rev B, LE01 rev A and PL16 rev B. They shall be retained at all times with no impediment to their intended use for the life of the development.

Reason: In the interests of highway safety and to secure free flow vehicular and pedestrian traffic.

4. Prior to any dwelling hereby approved reaching damp proof course level details of an uncontrolled pedestrian crossing onto Maidstone Road (including its maintenance) shall be submitted to and approved in writing by the Local Planning Authority. The crossing shall be ready for use prior to first occupation of any dwelling hereby permitted and retained for the life of the development.

Reason: In the interests of pedestrian safety.

5. Prior to any dwelling hereby approved reaching damp proof course level details of lighting to the pedestrian footpath linking the site with Maidstone Road shall be submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed before first occupation of the development hereby

approved and retained for the life of the life of the development.

Reason: In the interests of health, safety and security of the users of the footpath and in the interests of amenity.

6. An electric car charging point shall be provided prior to first occupation of each unit and retained for the lifetime of the development.

Reason: To encourage the use of sustainable transport.

7. The development hereby approved shall be subject to the provisions of submitted design code.

Reason: In the interests of visual amenity.

8. Prior to each dwelling hereby approved reaching damp proof course details and samples of the materials to be used in the construction of the external surfaces, (including hard surfacing) shall be submitted to and approved in writing by the Local Planning Authority. The dwelling shall be constructed using the approved materials.

Reason: In the interests of visual amenity.

9. Prior to first occupation of the development hereby permitted a landscaping scheme (which shall include landscaping along the route of the proposed footpath) designed using the principle's established in the Council's adopted Landscape Character Assessment 2012 shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

10. The approved landscaping associated with individual dwellings shall be in place at the end of the first planting and seeding season following completion of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following completion of the final unit. Any trees or plants, which, within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Reason: In the interest of visual amenity of the area.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

11. The construction of each dwelling hereby permitted shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) for each dwelling including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. 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.

Reason: To safeguard existing trees and proposed landscaping in the interests of visual amenity.

12. Prior to any part of the development hereby permitted reaching damp course details of a sustainable surface water drainage scheme shall be submitted for prior approval in writing by the Local Planning Authority. The submitted details, which shall include a management and maintenance programme for the lifetime of the development, shall be implemented prior to the first occupation of the any of the dwellings hereby approved and managed and maintained in accordance with the approved details.

Reason: In the interests of sustainability, flood protection and to protect groundwater from pollution.

13. Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: In the interest of amenity and to safeguard the night-time rural environment.

14. Prior to any part of the development hereby approved reaching eaves levels details of all means of enclosure (including that to enclose the proposed footpath to Maidstone Road) shall be submitted to and approved in writing by the Local Planning Authority. The means of enclosure to the proposed footpath will be provided before first occupation of any of the dwellings hereby permitted while other means of enclosure will be provided before first occupation of the dwelling to which they relate. The approved means of enclosure shall be retained for the life of the development hereby permitted.

Reason: In the interests of amenity.

15. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
- 1) A site investigation to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 2) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (1). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning

authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of pollution protection and health and safety.

16. A Closure Report shall be submitted prior to first occupation of the relevant residential dwelling. The closure report shall include full verification details as set out in 2 of the preceding condition. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: In the interests of pollution protection and health and safety.

17. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: To prevent the pollution of groundwater.

18. Prior each of the individual dwelling reaching damp proof course details shall be submitted to and approved in writing by the Local Planning Authority of schemes to demonstrate that the internal noise levels within each dwelling and external noise levels in back gardens and other relevant amenity areas conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice. The work shall be carried out prior to first occupation of any of the dwellings and retained for the life of the development.

Reason: In the interests of aural amenity.

17. The nature conservation recommendations/enhancement shall be implemented as set out in the KB Ecology Report, Preliminary Ecological Appraisal Ref No 2018/09/03 and dated the 8th January 2019.

Reason: To safeguard wildlife interests.

18. The development hereby permitted shall be carried out in accordance with the following drawings nos: EX01, 02, PL17 and 18, EX03-10(inc), LE01 rev A, PL01 rev B, 02 rev B, 03, 04 rev A, 05 rev A, 06 rev A, 07 rev A, 08 rev A, 09 rev A, 10 rev A, 11 rev A, 12 rev A, 13 rev A, 14 rev A, 15 rev a, 16 rev B, 19 and 20,

Reason: In the interests of amenity.

INFORMATIVES

- 1) The developer should be aware of the potential risks associated with the use of piling where contamination is an issue. Piling or other penetrative methods of foundation design on contaminated sites can potentially result in unacceptable risks to underlying groundwaters. Recommend that where soil contamination is present, a risk assessment is carried out in accordance with Environment Agency guidance 'Piling into Contaminated Sites'. Piling will not be permitted where there is an unacceptable risk to Controlled Waters.
- 2) Details submitted to discharge the drainage conditions attached to this planning permission shall demonstrate that surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.
- 3) The drainage scheme shall also demonstrate that:

- silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

Whilst the proposal to discharge at 3l/s for the 100 year storm event is acceptable and matches greenfield runoff for the 1 year event there is no indication of post development discharge rates for the 1 year and 30 year rainfall events.

Clarification is also required as to whether all rainfall events are discharging to 3l/s.

Although an allowance of 20% climate change has been included in drainage calculations and storage requirements a further sensitivity check should be carried out to include an allowance of 40% climate change for the 100 year storm event.

Provision of an exceedance plan demonstrating the volume of flooding on site and the route of overflow.

The Environment Agency's Flood Map for Surface Water shows there is a surface water flow path running throughout the site and this should be considered when preparing drainage arrangements.

Also required is an assessment of the ditch coupled with a CCTV survey of the existing culvert to ensure there is adequate capacity and the receiving watercourse/culvert is in an appropriate condition without any blockages.

A verification Report on surface water drainage is also required demonstrating a suitable modelled operation of the drainage system containing information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

- 4) Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.
- 5) The submitted details state that foul water from the proposed development will connect by gravity to an on-site package treatment plant with the treated effluent decanting into local watercourses. An Environmental Permit therefore will need to be obtained from the Environment Agency prior to works commencing to ensure such an approach does not pollute local watercourses.
- 6) It will be necessary to enter into a section 278 Agreement regarding provision of the access and proposed footpath onto Maidstone Road.
- 7) The southern and western part of the site is sited within a KCC minerals safeguarding area and you should contact KCC for its views how this is likely to affect the proposed development.

Case Officer: Graham Parkinson

Item 18, Pages 84-99

**Land at Rosemead Nursery
Maidstone Road
Headcorn
Kent
TN27 9RT**

PLANNING APPLICATION: 19/504348/FULL

- Page 85 amend description of development. As set out at paragraph 2.1 of the report the number of proposed units has been reduced from 13 to 12.

“Demolition of existing buildings and erection of 12 detached, two storey dwellings to be developed as self-build or custom-built homes by individual owners. Creation of access roads, associated parking and turning areas and the creation of a footpath link to Maidstone Road; along with landscaping and ecological enhancement works”.

The recommendation remains unchanged

PLANNING COMMITTEE

27 February 2020

Authority to serve Enforcement Notices at Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent, ME17 1NZ.

Final Decision-Maker	Planning Committee
Lead Head of Service	William Cornall - Director of Regeneration and Place Rob Jarman – Head of Planning and Development
Lead Officer and Report Author	James Bailey – Development Manager
Classification	Public
Wards affected	Harrietsham and Lenham

Executive Summary

The taking of enforcement action is discretionary, however, Local Authorities should act in a proportionate way which is in the public interest when they regard it as expedient to do having regard to the development plan and any other material considerations. An application for residential use on the site has been refused and the grounds of refusal sets out the harm arising. The current unlawful use of the land is contrary to National and Local Plan policies and the recommended enforcement action seeks to restore the site and its landscape back to the lawful use. The action recommended is proportionate taking into the account the residents Human and Equality Rights and will maintain the integrity of the decision-making process. The resident’s welfare, health and personal circumstances will be considered if the notices are served and take effect before any decisions are taken for further action for non-compliance with the notice.

Purpose of Report

Decision

This report makes the following recommendation to this Committee:

Serve two Enforcement Notices on land encompassing Pilgrims Retreat, Hogbarn Lane, Harrietsham with the aim of achieving:

- Reduction in the number of caravans on site to 198 – Compliance time of 24 months.
- Removal of all caravans, materials, rubbish etc from the site as a result of the above – Compliance time of 30 months.

- Cessation of the permanent residential use of 180 of the 198 caravans that remain on site - Compliance time of 48 months.
- Restoration of the southern part of the site to accord with the layout plan as approved under 13/1435 (see Appendix B of this report for this layout) and remove all walls, domestic paraphernalia, retaining walls, hard surfacing and internal roadways outside the developed areas defined on the plan - Compliance time of 48 months.
- Restoration of the site in accordance with a specified landscape strategy – 48 months.

That delegated authority be given to the Head of Planning and Development to settle the drafting and issuing of the Notices broadly in line with the terms set out in the recommendation above.

Timetable	
<i>Meeting</i>	<i>Date</i>
Planning Committee	27 February 2020

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities given the unlawful nature of activities that we are recommending enforcement action on. We set out the reasons other choices will be less effective in section 4 - available alternatives.</p>	Rob Jarman
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation supports the achievement of the Biodiversity and Environmental Sustainability cross cutting objective by seeking to restore the site, which is located in the AONB, in line with the mitigation proposed as part of the enforcement notices.</p>	Rob Jarman
Risk Management	Already covered in the risk section.	Rob Jarman
Financial	<ul style="list-style-type: none"> • The cost of covering the service of the Enforcement Notices can be met from the existing enforcement budget however in the event of appeals being submitting to the Planning Inspectorate, the Council will need to defend these. A £ figure cannot be estimated on the cost of such appeals as there are 	Section 151 Officer & Finance Team

	<p>various connotations on how these may come forward. It is likely that the existing appeals budget would not be able to fund the full cost of defending such appeals if submitted.</p>	
Staffing	<ul style="list-style-type: none"> We will deliver the recommendation with our current staffing. 	Rob Jarman
Legal	<ul style="list-style-type: none"> Accepting the recommendation will fulfil the Council's duties under Town and Country Planning Act and The Countryside and Rights of Way Act 2000. Failure to accept the recommendations without agreeing suitable alternatives may place the Council in breach of its legal duty under The Countryside and Rights of Way Act 2000 which requires the Council to have "regard to the purposes of conserving and enhancing the natural beauty of the area of outstanding natural beauty". Acting on the recommendations is within the Council's powers as set out in the Constitution. 	Susan Mauger – Legal Officer
Privacy and Data Protection	<ul style="list-style-type: none"> Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with our retention schedules. 	Policy and Information Team
Equalities	<ul style="list-style-type: none"> We recognise the recommendations will have an impact under S149 of the Equalities Act and Article 8 and Art 1 of the First Protocol of the Human Rights Act 1998 and have therefore assessed this impact separately within this report. 	James Bailey
Public Health	<ul style="list-style-type: none"> We recognise the recommendations may have varying impacts on the health of individuals within Pilgrims Retreat and the surrounding population. Displacement of individuals is likely to cause them distress. It is also recognised that the site is not served by public transport and therefore access by existing residents, many of whom are elderly, to core facilities and services is only obtained 	Public Health Officer

	by car without the ability to mitigate against the impacts of permanent residential homes with community infrastructure or affordable housing.	
Crime and Disorder	The recommendations are not considered to have a negative impact on Crime and Disorder. However, the Community Protection Team have been consulted in the event that such matters arise.	John Littlemore
Housing	We recognise the recommendations may have an impact on the Housing Team in terms of providing housing advice in the early stages and the possibility of providing more in-depth advice should any resident become threatened with homelessness. Until more is known about the circumstances of each household, it is difficult to plan for the quantum of temporary accommodation that might arise out of enforcement action.	John Littlemore
Licensing	The Council has issued a Caravan Site License for 198 caravans comprising 18 permanent residential mobile homes; 9 holiday caravans/mobile homes of the same type as the permanent residential ones but only to be used for holiday purposes; and; 171 static holiday caravans/mobile homes for holiday use only. This licence is valid, however it no longer reflects the number of caravans permitted on the site and therefore the site is being operated in breach of the site license.	John Littlemore

2. INTRODUCTION AND BACKGROUND

- 2.1 Pilgrims Retreat has been the subject of an on-going enforcement investigation following allegations that the number of caravans on site were above the lawful number permitted (set out in paragraph 2.8 below) and that a significant number of these caravans were being occupied as permanent residences, rather than as required by the conditions imposed on the main operative planning permission.
- 2.2 Planning Contravention Notices (PCN) were served on the landowner and the residents of the caravans in February 2019 and this established there were some 193 caravans being occupied as permanent residences at that time (the lawful use being for 18 permanent residences and 180 tourism related uses, albeit year round holiday use was permitted). Officers are aware that additional permanent residencies have been established on the site since the service of the original PCN's.
- 2.3 As a result of concerns over the continued breach of planning control at the site, the Council obtained a High Court Injunction on 18 April 2019, which

amongst other things, prevents any further caravans being brought onto the site and further prevents any vacant caravans (show homes) from being occupied.

- 2.4 Following discussions with the owner of the site and the refusal by the Council to determine application 17/506484 which sought a variation of condition 1 and 4 of MA/96/1132 to provide for the retention of the expansion of the area used for siting static holiday caravans and allow an increase in the number of static holiday caravans allowed to be sited, planning application 19/502469 was submitted and made valid on the 7 June 2019. This application was a retrospective application (in part) for the change of use of land from a mixed use of holiday units (180 caravans) and residential (18 caravans) to a residential park home site (for full-time residential occupation) comprising the stationing of 248 caravans, including engineering works to create terracing, hardstanding, retaining walls, and the extension of the site along the south east boundary.
 - 2.5 This application was considered by the Planning Committee on the 26th September 2019. A copy of the report is attached as Appendix 1 with Appendices A, B and C comprising the accompanying plans/decision letters.
 - 2.6 Members resolved to refuse the application on the grounds stated on pages 57 and 58 of the agenda pack (the last two pages of Appendix 1). A copy of the minutes for this meeting is attached as Appendix 2.
 - 2.7 The refusal of planning permission was issued on 27 September 2019 and is attached as Appendix 3.
 - 2.8 The committee report attached as Appendix 1 sets out the relevant planning history for the site and highlights in bold the key planning permissions. It also sets out the other relevant background information and a summary of the planning history and fall-back position. I do not intend to repeat that position in the current report as this should be read alongside this report, except to summarise that your officers consider the lawful permission for the site is for 198 static caravans of which only 18 should be used as permanent residences and 180 for holiday related uses and the majority of the engineering works undertaken in the southern part of the site, which includes the terracing of the site, are unauthorised.
 - 2.9 Following the refusal of planning permission, the applicants have sought to argue that some parts of the site are not restricted by caravan numbers, type and manner of use of those caravans as suggested by your officers. This counter argument has been carefully considered; however, I am of the firm view and having taking advice on this matter, that the position as set out in the officer's report to committee attached as Appendix 1 is correct and as summarised in paragraph 2.8 above.
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3. POLICY AND OTHER CONSIDERATIONS.

3.1 Maidstone Borough Local Plan 2017 – SS1, SP17, SP20, ID1, DM1, DM3, DM8, DM19, DM23 and DM30
National Planning Policy Framework - Feb 2019 (NPPF)
National Planning Practise Guide (NPPG)
Landscape Character Assessment (amended July 2013) and 2012 Supplement (saved sections of LCA and Landscape Guidelines 2000)
Natural England Standing Advice on Ancient Woodland
AONB Management Plan (2014 –19) & Landscape Design Handbook
Local Enforcement Plan - Nov 2018

3.2 Paragraph 58 of the NPPF states:

Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

3.3 The NPPG provides further guidance on taking enforcement action and advises that *Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest in their administrative areas¹ and that local planning authorities should act in a proportionate way. Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan. In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 58².*

3.4 The NPPG advises that effective enforcement is important to:

- *tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;*
- *maintain the integrity of the decision making process;*
- *help ensure that public acceptance of the decision-making process is maintained³*

3.5 The NPPG further advises:

Nothing in this guidance should be taken as condoning a wilful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.

¹ NPPG Paragraph 002 Reference ID: 17b-002-20140306. Revision date 06.03.2014

² NPPG Paragraph 003 Reference ID: 17b-003-20140306. Revision date 06.03.2014

³ NPPG Paragraph 005 Reference ID: 17b-005-20140306. Revision date 06.03.2014

In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- *there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;*
- *development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;*
- *in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed⁴.*

3.6 The term “expedient” is not defined in the Town and Country Planning Act but its ordinary meaning is “suitable for achieving a particular end”; “characterised by concern with what is opportune or advantageous rather than what is right, just or moral”.⁵

Expediency and Public Interest taking account of the above:

3.7 Having particular regard to the officer’s report to Planning Committee on 26 September 2019, attached as Appendix 1 to this report and to the reasons for refusal of the planning application to regularise the site, attached as Appendix 3, I would draw Members attention to the following paragraphs which explain the reasons why it is expedient, proportionate and in the public interest to pursue the preferred option as set out in section 6 below. I do not set these out verbatim, but the following paragraphs crystallise the harm being caused to the landscape designated as a national landscape and to the unsustainable location for permanent residential housing and impact on highways.

3.8 Paragraphs 7.10 – 7.20, 7.29- 7.39 regarding the impact on the landscape designated as an Area of Outstanding Natural Beauty and the Council’s legal duty under S85 of the Wildlife and Countryside Act 2000, and the associated conclusion on such matters at paragraph 8.02 and paragraphs 7.22 – 7.28 regarding the unsustainable location for housing and the objection raised on highway grounds with consequential conclusion on such matters at paragraph 8.01.

4. AVAILABLE OPTIONS

4.1 In considering how to exercise its discretionary powers and to ensure proportionality in the options pursued for enforcement action which are in the public interest, your officers, had a number of desired outcomes in mind which are summarised below. Not all of these outcomes can be controlled by planning/enforcement powers however it was considered important to consider these matters as a whole as the report to committee on the 26

⁴ NPPG Paragraph 011 Reference ID: 17b-011-20140306 Revision date 06.03.2014

⁵ Section 172(1) of the Town and Country Planning Act 1990

September and the subsequent grounds of refusal do cite most of the matters as areas of concern.

- To ensure only the lawful number of caravans (198) remain on site with any above this number being required to be removed.
- Notwithstanding what is stated in paragraphs 1.05 and 1.06 of the committee report to Planning Committee dated 26 September 2019, to seek the reversion of the southern part of the site (which comprises the hatched area of land as shown within paragraph 1.01 of the committee report) to that as shown on approved plan drawn by Peter Lead in application MA/13/1345 for the stationing of 60 caravans (a copy of this plan is included in this report as Appendix B).
- To seek the removal of retaining boundary walls to the southern section of the site and ensure adequate capacity in the drainage system.
- To ensure that minimum spacing requirements of the units are compliant with the licensing regime.
- To minimise risk, uncertainty and disruption to the current residents on site and to consider the impact on their Human and Equalities rights.

4.2 I set out below what I consider to be the available options for Members to consider:

Enforcement Options:

4.3 There are effectively 2 main enforcement options available to the Council to peruse and I briefly explain the advantages and disadvantages of both options:

OPTION 1

4.4 Serve two Enforcement Notices (with separate red line boundaries) with the aim of achieving the following:

- Reduction in the number of caravans on site to 198 - Compliance time 24 months.
- Removal of all caravans, materials, rubbish etc from the site as a result of the above – Compliance time 30 months.
- Cease the permanent residential use of 180 of the 198 caravans that remain on site - Compliance time 48 months.
- Restore the southern part of the site to accord with the layout plan as approved under 13/1435 (see Appendix B of this report for this layout) and remove all walls, domestic paraphernalia, retaining walls, hard surfacing and internal roadways etc outside the developed areas defined on the plan - Compliance time 48 months.
- Restore the site in accordance with a specified landscape strategy – 48 months.

- 4.5 The reasons for serving these notices is set out in paragraphs 3.7 and 3.8 above and refer back to the Planning Committee report to identify the harm arising.
- 4.6 The advantages of this option would see the site revert to its lawful use, would be the most compliant with regards to National and Local plan policies, would seek to restore the site and mitigate the harm to landscape and visual amenity and comply with the Council's statutory duty. It would be expedient and proportionate in that it seeks a reversion to the lawful use of the site but also seek to under-enforce by allowing the southern part of the site to be developed in accordance with the terms of application 13/1435 (the notice could require removal of all development on the southern part of the site except for that approved under MA/02/2056).
- 4.7 The disadvantages would be that the notices would require any persons occupying the site in excess of 198 caravans to move off-site and find alternative permanent residences and of the remaining residents, save for the 18 authorised caravans which can be residentially occupied, all those permanently occupying the site would likewise need to find alternative permanent residences as the authorised use would be for holiday purposes only.
- 4.8 This option would comply with most of the desired outcomes listed above but has the greatest impact on existing residents.

OPTION 2

- 4.9 Serve two Enforcement Notices (with separate red line boundaries) with the aim of achieving the following:
- Reduce the number of caravans on site to 198 - Compliance time 24 months.
 - Remove all caravans, materials, rubbish etc from the site as a result of the above – Compliance time 30 months.
 - Restore the southern part of the site to accord with the layout plan as approved under 13/1435 (see Appendix B of this report for this layout) and remove all walls, domestic paraphernalia, retaining walls, hard surfacing and internal roadways outside the developed areas defined on the plan - Compliance time 48 months.
 - Restore the site in accordance with a specified landscape strategy – 48 months.
- 4.10 The reasons for serving these notices is set out in paragraphs 3.7 and 3.8 above and refer back to the Planning Committee report to identify the harm arising, however this option would effectively permit the occupancy of all 198 caravans as permanent residences (i.e without the holiday use restriction).
- 4.11 The reason for this is that the last lawful use is the starting point when considering the discretionary exercise of taking enforcement action. By not seeking the reversion to the last lawful use in the terms of the notice, will,

on compliance with all the requirements of the notice, result in a deemed consent⁶ for those matters not enforced against.

- 4.12 The advantage with this option is that it would be the most complaint with the last of the desired outcomes (last bullet point in paragraph 4.1 above) in that it would cause the least disruption to residents on site however, it would still result in a number of residents having to leave the site to reduce numbers to 198 and would still require displacement of those residents in the southern part of the site (to the north of the site) to comply with the layout plan approved under 13/1435.
- 4.13 The disadvantage with this option is that is the least compliant with regard to National and Local Plan policy. It is true to say that this option would seek to address the harm to the AONB (by restoring the southern section of the site to that previously approved under 13/1435) and would follow Option 1 in this regard, however it would not address the key concerns as set out in the officers report to Planning Committee dated 26 September 2019 (Appendix 1 of this report) regarding the creation of an additional 180 permanent homes in the countryside in an unsustainable location and with poor highway connections. Kent Highways objected to the planning application which sought 248 residential caravans. Acknowledging that if any deemed consent arose (and that assumes full compliance with any enforcement notices served), that this would be for 180 caravans and not the 248 previously applied for, however the same issue arise in terms of location and highway issues as set out in the committee report.
- 4.14 There is also no certainly, and one I should add that is not relevant to the serving of any enforcement notices but is relevant to desired outcomes cited in 4.1 above, that were deemed consent effectively granted, the landowner could, pursuant to the Owners Licence, serve a Notice to quit to the residents – as the residents would be in breach of their licences to occupy for leisure purposes only. However, this is not in the remit for consideration as to which option/route the Council decides to take.
- 4.15 I shall also say that unlike a planning application which can seek to mitigate the impact of development arising (in the form of contributions/affordable housing via a S106 agreement) a deemed consent which could arise through Option 2 would not cater for this and any opportunities to help mitigate the impacts from 180 permanent homes would be lost through this option.
- 4.16 This option on face value appears to be the best fit option having regard to the desired outcome listed in paragraph 4.1 above, however, is the least compliant option when taking into account those matters as set out in Section 3 above and having regard to S172(1) of the Town and Country and Country Planning Act which confirms that *The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them –*

(a) *that there has been a breach of planning control, and*

⁶ Section 173(11) of the Town and Country Planning Act 1990 – anything that is not enforcement against is deemed to have been granted/authorised.

- (b) *that it is expedient to issue the notice, having regard to the development plan and to any other material considerations.*

Other Options:

4.17 **DO NOTHING - OPTION 3**

4.18 Members could decide to take no enforcement action on the site and leave the status as it currently is.

4.19 The advantage of such an approach would appear to meet the desired objective of causing the minimal risk, uncertainty and disruption to the current residents on site as set out in the last bullet point of paragraph 4.1 above, however the disadvantage of the do nothing option would be that the other desired outcomes cannot be achieved.

4.20 This option would also seemingly make a mockery of the planning system where such blatant breaches of planning control would go unchecked and would go against National and Local Plan policy. This could have widespread implications for the Council in that it could open up adverse public comments/LGO complaint procedures, undermine the principle of the planning process, open up the potential for further blatant breaches of planning control which the Council would seem to tolerate, make the Council appear weak and tolerant of such abuses and open up the potential for Judicial Review proceeding when clearly the existing breaches of planning are contrary to both National and Local Plan policies.

4.21 **GIVE AN EXTENDED PERIOD OF TIME FOR THE APPLICANT TO SUBMIT AN ALTERNATIVE PLANNING APPLICATION WHICH MEETS THE DESIRED OUTCOMES AS SET OUT IN PARAGRAPH 4.1 ABOVE – OPTION 4.**

4.22 The applicant has already been given a significant period of time in which to submit the previous application with the Council holding in abeyance any potential action awaiting the determination of that application. I am aware of occupants taking up permanent residential status on the site following the Council's enforcement investigations into the unlawful use of the caravans as permanent residences (when assurances were given by the park owner that the situation would remain as it was). This culminated in the Council obtaining a High Court Injunction as set out in paragraph 2.3 above.

4.23 There is a high degree of uncertainty both for residents on site and for the Council with such an approach. For instance, is it likely that the applicant will submit an application to restore the southern section of the site to that approved under 13/1435 (which both Options 1 and 2 seek to restore)? This is an essential requirement to address those concerns raised by the AONB Unit (attached to this report as Appendix C) and as set out in the officer's report to planning committee and in the grounds of refusal (Appendix 3). The Council has a statutory duty to conserve and enhance the AONB. Similar concerns relate to reducing caravan numbers to the lawful numbers. There are also inherent difficulties in addressing the

highway matters raised and indeed Kent Highway Services has objected to the previous application on the grounds of its unsustainable location⁷ and this was included in the grounds of refusal and significant difficulties arise (if agreement can be reached) regarding potential mitigation in the form of S106 contributions to address matters such as healthcare/affordable housing/sustainability/highway matters etc. Who will pay such contributions (the sums are significant).

- 4.24 Case law dictates that *...a decision maker should give the views of statutory consultees... "great" or "considerable weight". A departure from those views requires "cogent and compelling reasons"*.⁸ Case law also requires a consistency in decision making which is not limited to the formal decision but extends to the reasoning underlying the decision.⁹
- 4.25 The advantages of such an approach would be to see if there is an acceptable solution which complies with National and Development Plan policies. The disadvantage with such an approach is as set out above with the continued uncertainties for residents on site. There is also the added disadvantage with this option that there is no certainly over timing and the time periods for immunity as set out in Section 171B(3) of the Town and Country Planning Act 1990 i.e the 10 year use continue and the effect of this option would be that some residencies would be able to gain immunity from enforcement and become lawful due to the passage of time.
- 4.26 A further matter is that the 6-month time period for the appeal of the refusal of planning permission 19/502469/FULL expires on 27 March 2020. The applicant will need to decide whether to pursue this option. A further application could be submitted which seeks to address the grounds of refusal whilst simultaneously running a Section 78 appeal, however, the Council would need to retain the ability to defend such an appeal if no new application was submitted or determination of this application fell outside of the appeal timeframes (it is the Planning Inspectorate who sets the timeframes for appeals).

5. HUMAN RIGHTS AND EQUALITY ACT

- 5.1 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, states that everyone has the right to respect for (amongst other things) his private and family life, and his home. A decision to take enforcement on the site would be an interference with the majority of property owners to use their property as they see fit and the right to private and family life as set out in Article 8. It could also be seen as interference with owners' property rights under Article 1, Protocol 1. Such interference is permitted by the European Convention if it is in the general interest, but the interference must be "proportionate", which means that it must not be in excess of what is

⁷ Paragraphs 102 and 103 of the Feb 2019 NPPF

⁸ Shadewell Estates Ltd v Brackland DC (2013) EWHC 12 (Admin) paragraph 72.

⁹ As succinctly set out in R (oao Matthew Davison) and Elmbridge Borough Council (2019) EWHC 1409 (Admin)

needed to prevent harm to the general interest. Any interference with those Human rights should be in accordance with the law and necessary in a democratic society, applying the principle of proportionality.

- 5.2 As set out in the report above, the decision to take enforcement action is discretionary, but should only be taken when it is expedient, and any action is proportionate and in the public interest. The law, i.e the Town and Country Planning Act 1990, Section 172(1) states that *The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them –*
- (a) *that there has been a breach of planning control, and*
 - (b) *that it is expedient to issue the notice, having regard to the development plan and to any other material considerations.*
- 5.3 Planning permission for an earlier scheme was refused on the grounds as set out in the decision letter dated 27 September 2019. There has been a breach of planning and the refusal notice sets out the harm arising as a result of the unlawful stationing and occupation of caravans. A decision to serve enforcement notices to seek compliance with the lawful use of the land and compliance with both National and Local Plan policies and which resulted in the loss of individuals homes would be considered a necessary and proportionate response.
- 5.4 The Council must also have regard to its Public Sector Equality Duty (PSED) under Section 149 of the Equalities Act. The duty is to have due regard to the need (in discharging its functions) to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing, minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with protected characteristic(s).
 - Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 5.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Whilst it is acknowledged that the majority of occupants on site are older persons, which is a protected characteristic and the impacts of enforcement action is likely to have significant effects on those residents, given the harm to landscape quality and amenity of the locality, designated an Area of Outstanding Natural Beauty, the unsustainable location of the site, the impacts on highway matters and the conflict with established National and Local Plan policies, the equality duty is not sufficiently weighty in my view to prevent proportionate and expedient action which is in the public interest and maintains the integrity of the decision making process.

6. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

6.1 The option which delivers most of the desired outcomes and fulfils the requirements of Section 172(1) of the Town and Country Planning Act in so far as having regard to the provisions of the development plan and to any other material considerations is **OPTION 1**.

6.2 In order to set out my reasons for recommending Option 1, I must draw Members attention to the officer's report to Planning Committee on the 26 September (attached as Appendix 1 to this report) and to the refusal of planning permission (attached as Appendix 3). In particular paragraphs 7.10 – 7.20, 7.29- 7.39 regarding the impact on the landscape designated as an Area of Outstanding Natural Beauty and the Council's legal duty under S85 of the Wildlife and Countryside Act 2000, and the associated conclusion on such matters at paragraph 8.02 and paragraphs 7.22 – 7.28 regarding the unsustainable location for housing and the objection raised on highway grounds with consequential conclusion on such matters at paragraph 8.01.

6.3 I would also draw Members attention to the summarised reasons below which supports my recommendation for Option 1:

- the statutory obligation on the Council to have regard to the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to or so as to affect land in an AONB.¹⁰
- the fact that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection¹¹. The officers report to committee paragraphs 7.14 – 7.20 sets out the key discussion on this point. To my mind, the approach advanced in paragraph 7.20 of the committee report as set out in R (Mevagissey Parish Council) v Cornwall Council (2013) EWHC 3684 (Admin) (given the importance to AONB's by the NPPF and S85 of the Countryside & rights of Way Act 2000) should equally be applied as to whether enforcement action should be taken given the effect of S172(1) of the Town and Country Planning Act 1990 "*that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations*".
- the strength of objection from the Kent Downs AONB Unit - Appendix C.
- this option restores the site back to the lawful position, however, is proportionate in that it seeks to restore the southern section of the site to that previously permitted under 13/1435 (see analysis of this permission in paragraph 1.05 of the committee report).
- the objection from Kent Highways as the statutory consultee for highways on the grounds that the site is unsustainable in terms of its location and does not meet the objectives of the NPPF,

¹⁰ S.85(1) of the Countryside and Rights of Way Act 2000: "*In exercising or performing any functions in relation to, or so as to affect land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*".

¹¹ NPPF - para 172

paragraphs 102 and 103 with poor access to public transport and remoteness from local services and facilities.

- having considered the Human Rights and Equality Duty as set out in section 5 of this report, Option 1 is considered a necessary and proportionate response to the current unlawful use of the land with the Equality Duty not sufficiently weighty to prevent proportionate and expedient enforcement action which is in the public interest and maintains the integrity of the decision-making process.

- 6.4 It is acknowledged that Option 1 has the greatest impact on existing residents residing in the park. The cross-cutting issues at the start of this report set out the responses from the Head of Housing on matters that may arise as medium-term consequence as a result of following Option 1.
- 6.5 However, it is important to set out the time periods recommended by Option 1, not taking into account any delays caused by any appeal the landowner/residents may pursue¹², are lengthy (between 2-4 years) and seek a very gradual reversion to the last lawful use (except the southern section of the site which is recommended to be returned to the terms of application 13/1435. This is considered proportionate as the notice could require removal of all development on the southern part of the site except for that approved under MA/02/2056.
- 6.6 The Council also has powers under Section 172A of the Town and Country Planning Act 1990 to offer assurances as regards prosecution for person/s served with a notice. The Council retains the ability to consider the personal circumstances of each individual in the event of non-compliance with the terms of a notice¹³ and would assess this as and when such issues arise.
- 6.7 It is usual in all enforcement cases, especially where non-compliance with the term of the notice has occurred, for welfare checks to be carried out as individual circumstances are raised at each stage of the enforcement process. The Council would be able to assess these and make a decision as to whether an assurance from prosecution should be given to the individual at that time.
- 6.8 It is therefore recommended that Option 1 is the more appropriate course of action when considering all the matters raised in this report. Delegated authority to the Head of Planning and Development will be required to finalise the exact wording and issuing of the notice.

7. RISK

- 7.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks

¹² If any appeal is processed by Written Representations, 39 weeks, Hearing, 69 weeks, Inquiry, 70 weeks for PINS to determine an Enforcement Appeal.

¹³ Which is a criminal offence under Section 179(5) of the Town and Country Planning Act 1990.

associated are within the Council's risk appetite and will be managed as per the Policy.

8. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 8.1 If Option 1 is approved, then Enforcement Notices will need to be drafted. Individual addresses will need to be checked to ensure the correct names are added to the notices. A review of the information supplied through the PCN's and other records held by the Council will be carried out to establish if any of the caravans (in terms of their use as residential) are immune from enforcement action due to the passage of time.
- 8.2 It is anticipated that the notices could be served in three weeks following the decision of committee to authorise the serving of the notices.
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9. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Planning Committee Report
 - Appendix A: Planning Inspectorate Decision letter dated 26 June 1997
 - Appendix B: Decision notice for MA/13/1435 and accompanying plan
 - Appendix C: Kent Downs AONB comments
 - Appendix 2: Minutes of DC meeting 26 September 2019
 - Appendix 3: Refusal Notice dated 27 September 2019
 - Appendix 4: Exempt Legal advice dated 22 November 2019
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APPENDIX 1

PLANNING COMMITTEE REPORT – 26 SEPTEMBER 2019

REFERENCE No: 19/502469/FULL		
APPLICATION PROPOSAL: Retrospective application (in part) for the change of use of land from a mixed use of holiday units (180 caravans) and residential (18 caravans) to a residential park home site (for full-time residential occupation) comprising the stationing of 248 caravans, including engineering works to create terracing, hardstanding, retaining walls, and the extension of the site along the south eastern boundary.		
ADDRESS: Pilgrims Retreat, Hogbarn Lane, Harrietsham, ME17 1NZ		
RECOMMENDATION: REFUSE		
SUMMARY OF REASONS FOR RECOMMENDATION: The development is contrary to local and national policy/guidance for the following reasons: <ul style="list-style-type: none"> - It fails to conserve and enhance the landscape and scenic beauty of the AONB, as well as the intrinsic character and beauty of the countryside. - It is considered major development in the AONB, and there are no exceptional circumstances to permit this development, and it has not been demonstrated that development is in public interest. - It would authorise 230 residential units in an isolated location that would also have poor access to public transport and be remote from local services and facilities. - It fails to demonstrate the residual cumulative vehicle movements associated with 230 new residential homes would not have a severe impact on the local road network. - It has failed to demonstrate the site can provide adequate provisions for foul and surface water disposal for 248 residential units. - It fails to provide or agree to provide the necessary contributions towards community infrastructure and affordable housing provision in the borough. 		
REASON FOR REFERRAL TO COMMITTEE: <ul style="list-style-type: none"> - Given the significant planning issues the application raises - Councillors Sams have requested the application to be reported to Planning Committee 		
WARD: Harrietsham and Lenham	PARISH: Harrietsham	APPLICANT: Sines Parks Luxury Living Limited AGENT: Pegasus Group
TARGET DECISION DATE: 06.09.19		PUBLICITY EXPIRY DATE: 04.07.19

RELEVANT PLANNING HISTORY

Whilst the site has an extensive planning history, the key permissions are highlighted in bold below:

- 19/500936 - EIA Screening Opinion for: Material change of use of land from mixed use (tourism [180 caravans] & residential [18 permanent residential]) to residential for 248 mobile caravans, including engineering works to create terracing, boundary walling, and extension of site along south-eastern boundary – EIA not required
- 17/506484 – Vary conditions 1 & 4 of 96/1132 for retention of expansion of area used for siting static holiday caravans and allow increase in number of static holiday caravans – Declined to determine
- 15/502481 - Submission of details pursuant to conditions 1 (landscaping) and 3 (future management of coppice) of MA/13/1435 – Refused
- ENF/11505 – Breach of planning control as alleged in notice is without planning permission, carrying out of engineering operations – Appeal dismissed and enforcement notice upheld with corrections – South-west corner of site to have hardstanding removed and land remodelled back to its original state
- **MA/13/1435 - Vary condition 4 of 96/1132 to allow expansion of area used for siting static caravans & alterations to land levels - Approved**
- MA/13/0724 - Vary condition 4 of 96/1132 to allow expansion of area used for siting static caravans and operational development to alter land levels – Refused
- MA/12/1910 - Advertisement – Approved
- MA/12/0388 - Extension to clubhouse to form indoor bowls facility – Approved

- MA/12/0378 - Erection of shop and offices building – Approved
- **MA/11/2190 - Vary condition 2 of 03/2343 to allow use of caravans, tents & static caravans for holiday purposes all year round – Approved**
- MA/11/1753 – (Retro) for mobile home for residential use by caretaker – Approved
- MA/11/0897 - Erection of double garage – Approved
- MA/11/0384 - Advertisement consent– Refused
- MA/08/1128 - Extensions and alterations to clubhouse – Approved
- MA/07/0142 – Vary condition 1 of 96/1132 to increase number of residential units from 18 to 27 with reduction of holiday units from 180 to 171 – Refused (dismissed)
- MA/03/2343 - Vary condition 2 of 96/1132 to extend season from 8 to 10mths - Approved
- **MA/02/2056 - Vary condition 4 of 96/1132, to enable static holiday caravans to be sited on area of southern part of site restricted to touring caravans - Approved**
- MA/97/3459 - Submission of details pursuant to condition 6(i) (scheme for provision & management of landscaping & for replacement lighting within area hatched & edged red on plan) of appeal decision related to 96/1132 - Approved
- **MA/96/1132 - Use of land for siting of 180 holiday caravans and 18 residential caravans (inc. extension of site) – Refused (allowed at appeal)**
- MA/85/1597 - Use of caravan for camping in addition to caravans - Approved
- MA/84/0907 - Managers accommodation, amenity rooms/toilets & pool - Approved
- MA/83/0934 - Construction of internal roads, car parking and caravan hardstandings for 178 holiday caravans and 1 residential caravan – Approved

OTHER RELEVANT BACKGROUND INFORMATION

- The Ancient Woodland along the front of the site and on the opposite side of the road from the site's entrance, and other trees within the site, are protected under Tree Preservation Order no. 10 of 2003.
- There is an Injunction Order on the site (made on 8th June 2012) to refrain from works to any tree protected by TPO no. 10 of 2003.
- There is an Injunction Order on the site (made on 18th April 2019) to (inter alia) prevent further caravans or mobile homes being brought on to the site.
- The application site currently does not have a valid site licence. The licence holder was a body corporate which is now dissolved. No transfer of the licence had been applied for prior to the company's dissolution. Whilst it is desirable for the operator to obtain a site licence, they may apply for a site licence but can only apply for the numbers granted under the extant planning permission i.e. 198 (being 18 full residential the remaining 180 for holiday occupation) and not the proposed number of 248 permanent residential. Therefore any licence at this time cannot be granted for 248.
- Planning contravention notices have been served on the site and from the responses returned to the Council, there are about 193 caravans being used unlawfully as permanent residences (in addition to the 18 lawful residential caravans) as opposed to being used lawfully as a caravan for holiday purposes only.

The Council is also aware of recent households moving onto the site on a permanent basis.

- In site licence terms there is a requirement for the spacing between occupied caravans to be 6m apart. The submitted plans show a cluster of 6 caravans in the south-western corner that are less than 6m apart. However, as explained above, Pilgrims Retreat does not have a valid site licence.
- A Council Building Control officer visited the site in July 2018, after a major wall had collapsed due to water pressure built up behind wall after heavy rainfall. This was found to be only a garden 'feature' wall. There is another wall (some 3m in height) designed as a retaining structure (rear of units 2-8 Castle Drive) for which a structural appraisal was requested by Building Control. This was received and passed to a Structural Engineer for assessment. One of the suggestions made by the Structural Engineer to the site owner was to have a full assessment of the road drainage system (by a competent drainage engineer), to include storm drainage from each residential unit as these are just discharging to the ground surface, adding to the failure of the road drainage system. This was only advisory as the Council's Building Control Department does not have the authority to pursue this matter. The Building Control Team has also confirmed that there is no ongoing involvement for Building Control, as the works are outside the Building Act 1984.

1.0 Summary of planning history and fall back position

- 1.01 Appeal decision references: T/APP/C/96/U2235/643713-4 and T/APP/U2235/A/96/273772/P6 (LPA reference: MA/96/1132), granted use of the land as a caravan and camping park (180 caravans or tents) for tourism relates purposes only and for 18 permanent residential caravans. The Inspector restricted the southern part of the site to touring caravans (with a max. of 25 at any one time) and attached a number of conditions to the consent. For reference, the plan below shows the site location plan related to the appeal decision and the hatched area is the 'southern' part of the site. For reference, the appeal decision is attached to this report (APPENDIX A).



- 1.02 Planning application reference: MA/02/2056 allowed static caravans in a restricted part of the southern area of site, where only touring caravans were previously allowed. This permission is considered to be the most relevant permission for the southern portion of the site, and officers are of the view that only 10 static holiday

units at the south-eastern end of the site can be lawfully stationed and occupied for tourism related purposes. None can be occupied for residential purposes.

- 1.03 The nineteenth residential unit permitted under MA/11/1753 was restricted by condition to caretaker accommodation only. It is understood this that this unit has since been removed.
- 1.04 MA/11/2190 allowed holiday accommodation (180 caravans) to be occupied any time of year.
- 1.05 Planning application reference: MA/13/1435 which was part retrospective and part prospective, allowed 60 additional static holiday caravans to be stationed in an area at the southern end of site, including operational works and an area of land in the southern corner to be planted with new woodland, and the retention of the coppice in the south-eastern corner of the site. The layout plan and decision notice for MA/13/1435 is attached for reference (APPENDIX B). Heart of the matter conditions (1 [landscaping] and 3 [future management of existing coppice woodland]) on this permission have not been discharged and notwithstanding this, what has been stationed/constructed on site is not as per the approved drawings. In terms of caravan numbers on the wider site, the applicant was not seeking more than the 198, as approved under the above referenced appeal decision.
- 1.06 Whilst operational works were permitted under application reference: MA/13/1435, it is considered that this permission remains incapable of full implementation as the works were carried out without approval of conditions. Furthermore, the coppice should have been kept free of development but has been built upon. As such, the majority of development relying upon this permission will not be authorised.
- 1.07 In summary, the site has lawful permission for 198 static caravans to be stationed on it, of which only 18 should be used as permanent residences; and the majority of the engineering works undertaken in the southern part of the site, which includes the terracing of the site, are unauthorised. The description of development (see below) is to seek regularisation of the development already carried out (retrospective) and works proposed to be carried out (prospective).

2.0 Site description

- 2.01 For the purposes of Maidstone's Local Plan, Pilgrims Retreat is within the countryside that falls within the Kent Downs Area of Outstanding Natural Beauty (AONB). The application site measures approximately 11ha in area.
- 2.02 The site is on the south-eastern side of the rural and unclassified Hogbarn Lane; and there are residential properties either side of the site, including 'Uplands' to the north-east, and 'Broomfield' to the south-west. Pilgrims Retreat is located on the slope of the North Downs, around 3.2km to the north of Harrietsham village; and more than 4.8km away from Lenham village. The nearest district centre, as defined by the Local Plan, is The Square in Lenham village which is more than 5.5km away from the site. The local road network is of narrow (unlit) country lanes with no pavements or cycle lanes that are largely at national speed limit; the nearest bus stops are found on the A20, some 3km away from the site.
- 2.03 The Ancient Woodland along the front of the site and on the opposite side of the road from the site's entrance, and other trees within the site, are protected under Tree Preservation Order no. 10 of 2003. Please note that the Ancient Woodland within the application site (red outline), was not in the 1994 revised Provisional Inventory of Kent's Ancient Woodlands, but was in the 2012 Inventory. There are public footpaths in the vicinity of the site, including a public footpath (KH209A) that

runs to the south-west of the site; and public footpaths (KH288 and KH286) running further to the south of the site.

- 2.04 The application site is within Flood Zone 1; there are no listed buildings on the site, with the nearest listed building (known as 'Lenniker') sited some 435m to the north-east of the site (Grade II listed); and there is small circular Area of Archaeological Potential some 370m to the south-east of the site.

3.0 Proposal

- 3.01 This application is for a material change of use of the land from a mixed use of holiday units (180 static caravans) and residential (18 static caravans) to a residential park home site (for full time residential occupation) comprising the stationing of 248 static caravans, including engineering works to create terracing, hardstanding, retaining walls, and the extension of the site along the south-eastern boundary.
- 3.02 The majority of the engineering works, which includes the terracing of the site, undertaken in the southern part of the site are unauthorised; the development involves full-time residential use across the site, with the addition of 50 more static caravans over and above that permitted by the Inspector's decision (increasing the number of full-time residential units by 230); the southern part of the site is now largely populated by static caravans; the site has been extended southwards; and protected trees have been removed without consent. The Council has served Planning Contravention Notices (PCNs) on the owners and occupiers and the results of these show that some 193 caravans are occupied as residences (other than the lawful 18 residential caravans) when the lawful use is as holiday accommodation only, albeit year round holiday use is permitted.
- 3.03 The development is also accompanied by a landscape mitigation plan. This shows new native trees and shrubs planted in the south-western corner of the site, and new native tree and hedgerow planting along the south-western boundary of the site. The plan also shows the retention of existing trees on the site, as well as new tree planting; and a wildflower grass strip and new woodland edge would be planted at the southern end of the site.
- 3.04 The assessment of this application will also focus on aspects that are normally covered by the site licence (i.e. drainage and sanitation). This is considered reasonable to do in this instance given that the (subjective and vague) site licence conditions relating to such matters are not currently enforceable as the site licence is invalid, and there is an obligation to ensure that the site provides adequate provisions of foul and surface water disposal for a site with 248 residential units. This is particularly when the development is part retrospective, and it is not known if the surface water and sewage disposal systems are adequate.

4.0 Policy and other considerations

- Local Plan: SS1, SP17; SP20; ID1; DM1, DM3, DM8, DM19, DM23, DM30
- National Planning Policy Framework (2019)
- National Planning Practice Guidance
- Landscape Character Assessment (amended July 2013) and 2012 Supplement (saved sections of LCA and Landscape Guidelines 2000)
- Natural England Standing Advice on Ancient Woodland
- AONB Management Plan (2014-19) & Landscape Design Handbook
- Harrietsham NHP: Pre-submission consultation withdrawn 5th May 2015

5.0 LOCAL REPRESENTATIONS

- 5.01 111 representations received:
- 109 representations (from residents of the site) are in support of application
 - 1 objection raises concerns over need for contributions to infrastructure; highway safety; and what impacts development has in terms of water pressure, drainage, flooding and sewage problems
 - 1 representation neither objects nor supports development, but does oppose another retrospective application on this site, and current site license should be enforced

6.0 CONSULTATION RESPONSES

6.01 **Councillors Sams:** If minded to recommend approval of application it is requested that application is reported to Planning Committee on the grounds of the size of the application and the impact on the health and wellbeing of the residents of the site and the wider community.

6.02 **Harrietsham Parish Council:** As there is an injunction on site, the parish council feels it would be inappropriate to make a recommendation. However, they wish to make the following (summarised) points:

- *There are errors in Travel Plan*
- *How will Travel Plan Co-ordinator being employed on site be monitored?*
- *Site is not safely accessible on foot or by cycle*
- *Development can clearly be seen from within AONB and beyond*
- *Pilgrims Retreat not included in housing figures for Harrietsham*
- *Does not support local economic growth and not served by public transport*
- *Increase in vehicle traffic has unacceptable impact on local roads*
- *No exceptional circumstances; need not demonstrated; expansion not in public's interest*
- *Concerns site is unsafe, in terms of terracing and caravan bases*
- *Both foul and surface water have not been addressed*
- *Development will affect distinctive landscape character of AONB*
- *Glebe Medical Centre overstretched and local roads unsuitable for traffic generated*
- *Trees felled to accommodate additional caravans and there is a TPO in place on site*
- *Visitor parking removed contrary to LP policy DM23*

Parish has sympathy for occupants and suggested common sense approach would be only the 212 properties currently occupied should have residential status. Additional dwellings should be refused and additional homes and bases removed, reinstating all of land devastated without permission. Due to current size of development, Parish feels it appropriate to stop future expansion of site with permanent court injunction put in place.

6.03 **Finstead Parish Council:** No representations received.

6.04 **Kent Downs AONB Unit:** Raises objection (APPENDIX C).

6.05 **Environmental Protection Team:** Raises no objection.

6.06 **KCC Highways:** Raises objection.

6.07 **Landscape Officer:** Raises objection.

6.08 **KCC Biodiversity Officer:** Raises no objection.

6.09 **KCC Drainage:** Raises no objection.

6.10 **Environment Agency:** Assessed application as having low environmental risk.

6.11 **Southern Water:** Raise no objection.

6.12 **Forestry Commission:** Confirms Ancient Woodlands are irreplaceable.

6.13 **Kent Police:** Raise no objection.

- 6.14 **KCC Economic Development:** Financial contributions requested.
- 6.15 **MBC Parks and Open Space:** Financial contributions requested.
- 6.16 **NHS Primary Care Team:** Financial contributions requested.
- 6.17 **MBC Housing Manager:** Affordable housing provision requested.

7.0 APPRAISAL

Main issues

Maidstone Local Plan (2017)

- 7.01 In accordance with Local Plan policy SS1 (Borough Spatial Strategy), the principal focus for new residential development in the borough is the urban area, then rural service centres and then larger villages. As set out in Local Plan policy SP17 (countryside), new development in the countryside will not be permitted unless it accords with other policies in this plan and does not result in harm to the character and appearance of the area.
- 7.02 Local Plan policy DM30 (design principles in countryside) allows for development in the countryside provided it is of a high quality design; it satisfies the requirements of other policies in the Local Plan; and it meets the following (summarised/relevant) criteria:
 - *Type, siting, materials, design, mass & scale of development and level of activity would maintain, or where possible, enhance local distinctiveness including landscape features*
 - *Impacts on appearance and character of landscape would be appropriately mitigated*
 - *Proposals would not result in unacceptable traffic levels on nearby roads*
- 7.03 Local Plan policy DM1 (principles of good design) seeks high quality design and for development to respond positively to, and where possible enhance, the local and natural character of the area. It also seeks development to 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 in the site.
- 7.04 The development site is within the AONB and the statutory duty of the local planning authority requires that any proposals have regard for the purpose of conserving and enhancing the natural beauty of the AONB. Local Plan policy SP17 states that "*...great weight should be given to the conservation and enhancement of the Kent Downs AONB.*"
- 7.05 Local Plan policy DM3 (natural environment) seeks to protect positive landscape features such as Ancient Woodland; and Local Plan policies SP20 and ID1 relate to affordable housing and community infrastructure provision respectively. These matters will be discussed in more detail later on in this report.

Revised National Planning Policy Framework (2019)

- 7.06 What is key to note here is that the Council does have an up to date Local Plan and this is the starting point for decision making; and where planning applications conflicts with this Local Plan, permission should not usually be granted unless material considerations indicate otherwise.
- 7.07 The NPPF is also clear that good design is a key aspect of sustainable development; and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 170 of the NPPF also states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

7.08 Of most relevance, paragraph 172 of the NPPF states the following:

Great weight should be given to conserving and enhancing landscape and scenic beauty in.....AONBs, which have the highest status of protection in relation to these issues. Conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. Scale and extent of development in these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

7.09 As set out in the NPPG, it is clear that the scale and extent of development in an AONB should be limited, in view of the importance of conserving and enhancing its landscape and scenic beauty. All development in the AONB needs to be located and designed in a way that reflects its status as a landscape of the highest quality.

Other relevant matters

7.10 Section 85 of the Countryside and Rights of Way Act 2000 places an explicit duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to or so as to affect land in an AONB:

85(1): In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

7.11 Pilgrims Retreat falls within the Dry Valleys and Downs Landscape (Area 7: Wormshill, Frinstead and Otterden Downs and Dry Valleys) within Maidstone's Landscape Character Assessment (amended July 2013). The guidelines for this area are to 'conserve and reinforce'; and the most relevant considerations are outlined below:

Key characteristics:

- *Landscape forms part of Kent Downs AONB*
- *Gently undulating landform of dry dip slope valleys and ridges*
- *Many large woodland tracts with oak and ash*
- *Chalk grassland pasture in dip slope valleys*
- *Arable fields on ridges*
- *Strong network of species rich native hedgerows*
- *Narrow winding lanes which most often are lined by hedgerows*

Summary of actions:

- *Conserve and reinforce large tracts of woodland, especially where AW is present*
- *Reinforce management of historical coppice by encouraging management of areas of unmanaged coppice stools*
- *Conserve good network of hedgerows & reinforce management of hedgerows*

7.12 The Kent Downs AONB Management Plan does not form part of the statutory Development Plan, but the Council has adopted it and it is a material consideration when assessing any planning application. The AONB Management Plan helps to set out the strategic context for development; it provides evidence of the value and special qualities of this area; it provides a basis for cross-organisational work to support the purposes of its designation; and it details how management activities contributes to its protection, enhancement and enjoyment. The following policies within this Management Plan are considered to be of particular relevance: SD1; SD2; SD3; SD7; SD8; SD9; LLC1, WT1, and WT7. In summary, these policies seek to conserve and enhance the natural beauty and distinctiveness of the AONB, which

is recognised as the primary purpose of designation; and development or changes to land use will be opposed where they disregard or run counter to the primary purpose of Kent Downs AONB.

- 7.13 There is also an AONB Landscape Design Handbook that includes landscape character areas (LCAs). The Kent AONB Unit has confirmed that the site lies in the Mid Kent Downs LCA, where overall landscape character objectives seek to conserve the small scale of roads and villages and the remote quality of the countryside; and to control urban fringe pressures. Within the Mid Kent Downs LCA, the site lies in the Bicknor LCA, specific guidelines include to conserve and manage the dense belts of broadleaf woodland; to create wooded edges to settlements; and to seek the use of sympathetic local materials such as brick, tile and flint.

Is application major development in the AONB?

- 7.14 For the purposes of paragraph 172 of the NPPF, this assessment is a matter of planning judgment to be made by the decision maker when taking into account all of the circumstances of the application and the site's context. It is also important to note that the phrase 'major development' is to be given its ordinary meaning, as established in High Court judgement *Aston v SoS for Communities and Local Government [2013] EWHC 1936 [Admin]*:

Paragraph 94: I am satisfied that the Inspector made no error of law when he determined that the meaning of the phrase major development was that which would be understood from the normal usage of those words.

- 7.15 It would therefore be wrong in law to:
- Apply the definition of major development contained in the Development Management Order to para. 172 of NPPF
 - Apply any set or rigid criteria to define 'major development'
 - Restrict the definition to proposals that raise issues of national significance.
- 7.16 When making a judgement as to whether a development in the AONB is major or not (in light of its nature, scale and setting), the potential for significant harm to the AONB should be a primary consideration. This however does not require (and ought not to include) a detailed assessment as to whether the development will in fact have such an impact.
- 7.17 It must be stressed again that as a matter of planning judgement, the decision maker must consider an application in its local context. This is implicit in High Court judgement *R. (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)*, when it was noted that...."major developments would normally be projects much larger than 6 dwellings on a site the size of Forge Field". It appears that Linblom J had considered the possibility that, depending on local context, there may be situations where a project of 6 dwellings could amount to major development for the purposes of paragraph 172 of the NPPF.
- 7.18 Specific to this application, it is important to first consider what is authorised on the site. Notwithstanding the site's extension and the restrictions on the number of units permitted in the southern part of the site, the appeal decision (as referenced in paragraph in 1.01 above) does authorise the lawful use of the land for the stationing of 198 static caravans. However, even if simply considering the proposed increase in number of authorised static caravans on the site (which is 50), in this wider rural landscape setting and given that they would be residential in nature, the proposal constitutes major development. The authorisation of even 50 additional caravans is likely to have a significant adverse impact on the purposes for which the AONB has been designated.

- 7.19 Taking into account all of the above matters and the site's local context, it is considered that the development does constitute major development in the AONB. It is therefore necessary to apply the two tests as informed by the three mandatory assessments referred to in paragraph 172 of the NPPF.
- 7.20 There must be both exceptional circumstances for allowing the proposal and it must also be demonstrated that the proposal is in the public interest. The judgement in *R (Mevagissey Parish Council) v Cornwall Council [2013] EWHC 3684 (Admin)* sets out the approach by which decision-takers should address the planning balancing exercise, such that: "*In coming to a determination of such a planning application under this policy, the committee are therefore required, not simply to weigh all material considerations in a balance, but to refuse an application unless they are satisfied that (i) there are exceptional circumstances, and (ii) it is demonstrated that, despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest*". The assessments referred to in paragraph 7.08 above (a, b & c of NPPF paragraph 172) should be considered and these are returned to later.
- 7.21 I shall apply the balancing exercise in my conclusion section of this report.

Location of development and highway safety implications

- 7.22 Whilst the site is authorised to have 198 static caravans on the site, only 18 of these should be in permanent residential use. It is not considered that the authorised 18 residential units constitutes a 'settlement': (see *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610*), and 230 additional residential units here would be remote from any other recognisable settlement in the wider countryside. Whilst the situation on the ground is different (i.e. from evidence collected from the PCN's there are about 193 caravans being used unlawfully as permanent residences [in addition to the 18 lawful residential caravans] as opposed to being used lawfully as a caravan for holiday purposes only), in planning terms the other static caravans on the site should only be used for bona fide tourism related purposes (albeit they can be used 12 months of the year), and whatever sense of community they may create, this should be transient and cannot be considered as a 'settlement' for the purposes of the NPPF, as they are not authorised dwellings. It is therefore a matter of fact and planning judgement that the development would add 230 isolated homes in the countryside, and not one of the circumstances set out in paragraph 79 of the NPPF applies.
- 7.23 The development would result in the authorisation of 230 new residential units at Pilgrims Retreat. The nearest village (Harrietsham) is approx. 3.2km away; Lenham is more than 4.8km away; the local road network is of narrow country lanes that are unlit with no pavements or cycle lanes and are largely at national speed limit; the nearest bus stops are found on the A20; and to reach the site from the A20 is via a steep hill (Stede Hill). Without evidence to the contrary, there is also no assumption made that all residents are retired and so travelling for work purposes must also be considered.
- 7.24 The agent has confirmed that Pilgrims Retreat does have an all year round swimming pool; there is a bar on site (closed Mondays); there is a restaurant in the bar that is open six days a week (10:30-16:30); a mobile fish and chip van which attends the park every Monday from 5-7pm; the currently closed shop on site is being refurbished and due to re-open in September 2019; and there are discussions about having a separate meeting hub for residents where they will be able to have tea and coffee if they do not wish to use the on-site bar facilities.

- 7.25 With the above considered, it is not realistic to say that the majority of residents (who are currently over 50yrs of age) will regularly walk and cycle to local services and facilities or places of employment; and whilst there are some facilities on site, occupants of the site are/will be heavily reliant on the private car for their day to day living. The Highways Authority are also of the view that the site is unsustainable in terms of its location.
- 7.26 Furthermore, as set out in paragraph 103 of the NPPF, "*significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*". This development (for 230 new dwellings) is considered significant; it is in an unsustainable location; and it is not accepted that the development (even with the introduction of a minibus service running into town three times a week, as briefly suggested in the submitted Transport Technical Note [para. 4.13]) could be realistically made acceptably sustainable. So whilst it is accepted that sustainable transport opportunities are likely to be more limited in rural areas, the lack of any apparent available or achievable sustainable transport options for 230 new dwellings would see a major development unable to adequately support the objectives set out in paragraph 102 of the NPPF which seek to ensure that transport issues are considered from the earliest stages of plan-making and development proposals. The Highways Officer is also of the view that the development does not meet the objectives set out in paragraphs 102 and 103 of the NPPF; and without sustainable transport options being available, a Travel Plan in their view has little merit. This weighs against the development.
- 7.27 The Highways Authority has reviewed all of the submitted information relating to transport, and has considered the application as one for 230 new homes. Within the submitted information, it has not been established what proportion of residents on the site are retired or employed, and this is considered to be an issue of fundamental importance in transport terms. Without clarity, the Highways Authority consider the surveys undertaken to have no value and have no basis for undertaking projections/forecasts. Furthermore, the site is in a rural area accessed by rural, narrow roads. The applicant previously undertook a conflict analysis for Hogbarn Lane (para 5.10 of original Transport Statement); and this document also makes reference to rural lane capacity research (para 5.11). Without an impact assessment undertaken for 230 new homes, The Highways Authority objects to the development. This weighs against the development.
- 7.28 No objection is raised to the application in terms of parking provision.

Visual impact

- 7.29 The appeal permission granted 198 caravans (18 of which for permanent residential use), but restricted the area to which these could be stationed on to the northern part of the site. Permission MA/02/2056 then permitted the stationing of 10 caravans on the southern part of the site for touring purposes only but did not increase the overall numbers permitted on the whole site.
- 7.30 MA/13/1435 granted permission for 60 static holiday caravans to be stationed in the southern end of site (leaving 138 in the northern section), and included operational works and an area of land in the southern corner to be planted with new woodland, and the retention of the coppice in the south-eastern corner of the site. However, as previously explained, heart of the matter conditions on this permission have not been discharged; notwithstanding this, what has been stationed/constructed on site is not as per the approved drawings; and whilst this permission remains extant, it remains incapable of full implementation and the majority of development relying upon this permission is not authorised.

- 7.31 As such, in terms of fall back the majority of the engineering works undertaken in the southern part of the site are unauthorised; and planning permission MA/02/2056 is considered to be the most relevant permission for the southern portion of the site (in terms of what can be lawfully stationed on this part of the site). The submitted Landscape and Visual Assessment (LVA) considers the baseline to be that at which planning permission was allowed in 2013, but as set out this is considered to be incorrect.
- 7.32 This application should be tested against the purpose of the AONB designation, which is to conserve and enhance the natural beauty of the AONB (in accordance with Local Plan policy and the NPPF), whilst having due regard to the fall back position.
- 7.33 In general terms, the submitted LVA draws conclusions that the landscape sensitivity of the site as being 'low to medium'. However, both the Council's Landscape Officer and the Kent Downs AONB Unit disagrees with this conclusion. Instead, the sensitivity of the landscape should be considered as 'high' or 'very high', given its AONB location. Indeed, whilst not prescriptive, the Landscape Institute's *Guidelines for Landscape and Visual Impact Assessment* makes it clear that landscapes that are nationally designated (such as AONB's) will be accorded the highest value in the assessment. The Landscape Officer does not consider the LVA to have reached an appropriate conclusion, because it has not considered the true baseline; and it has not attached adequate weight to the importance of the nationally designated AONB.
- 7.34 The Kent Downs AONB Unit's comments are summarised below:
- *Such development rarely constitutes appropriate development, as utilitarian design of caravans fails to conserve or enhance local character, qualities and distinctiveness of AONBs. Therefore it fails to meet key requirement of conserving & enhancing landscape & scenic beauty within AONBs.*
 - *Significant extension in number & density of caravans, in remote location, would fail to comply with guidelines for development in Mid Kent Downs LCA - would clearly be in conflict with objectives of KD AONB Management Plan as well as national & local plan policies.*
 - *Clearance and levelling of 0.8ha of coppiced valley side with artificially engineered platforms to accommodate expanded area of permanently stationed caravans does not constitute a 'minor' change to landscape, nor would it be a 'low to medium' magnitude of change to landscape character.*
 - *Harm is exacerbated by removal of existing vegetation/trees; & remodelling of land levels to form artificial terraces & retaining walls, introducing suburban features in rural location.*
 - *Harm arises given increase in lighting & caravan numbers and their permanent occupation.*
 - *Increase in amount & density of caravans doesn't allow for significant planting between units to help assimilate them into rural surroundings; & shown landscape mitigation is very meagre, failing to adequately compensate for substantive harm resulting from proposal.*
- 7.35 The application site is well screened from Hogbarn Lane, however, public views of the development are possible from Stede Hill, Flint Lane and the public footpath (KH209A) to the south-west of the site. In any case, NPPF advice relating to the countryside is unambiguous when it states that it is the intrinsic character and beauty that should be protected, as well as the landscape and scenic beauty of an AONB. It is considered that this protection is principally independent of what public views there are of the development, and associated more to the protection of the nature of the land in itself.

- 7.36 This view is echoed by the Kent Downs AONB Unit, who also considers it incorrect to assess a lower impact on the landscape character on the basis of a lack of wider visibility of site:

"We consider the high sensitivity of the site and a high magnitude of change would give rise to a major adverse (i.e. significant) effect on landscape character. Furthermore, reducing the assessed levels of harm on the basis of the small scale of an area affected, and its visual dissociation with the surrounding area is wholly inappropriate. Whilst the site is relatively contained within the wider landscape and the development may not affect wider long-distance views, this is not the sole test for the acceptability of development in an AONB. The AONB is a wide and large expanse of area and any development which significantly detracts from elements which contribute to that wider natural and scenic beauty would not conserve or enhance it. This development would have a detrimental impact on many of the special characteristics and qualities of the Kent Downs, including landform and views; tranquillity (through introduction of additional lighting); and biodiversity rich habitats and woodland and trees. This is contrary to the conclusion of the submitted LVA that states: '...there would only be a very minor impact on very few elements of the special qualities and characteristics of the AONB'.

- 7.37 To summarise, with regards to the Maidstone Landscape Character Assessment, the Landscape Officer does not consider the development to be appropriate in terms of the relevant recommended actions for landscape character area in which it sits; and further to this, proposed mitigation planting is considered to be wholly inadequate and inappropriate to the location. The Kent Downs AONB Unit also conclude by stating that the development weakens the characteristics and qualities of the natural beauty, having a significant detrimental impact on the landscape character; and the development disregards the primary purpose of AONB designation, namely the conservation and enhancement of its natural beauty, contrary to paragraph 172 of NPPF and Local Plan policy SP17.
- 7.38 It should also be stressed that the whole southern section of the site is covered by TPO no. 10 of 2003, which is an effective landscape designation. As MA/13/1345 is valid but not capable of further implementation, the baseline line for assessment should be with the trees in position on this part of the site (shown on plan APPENDIX B). Whilst the loss of some trees was accepted under MA/13/1345, as is evident on the plan, it was important to retain the large coppice of TPO trees and to establish substantial (and appropriate) new tree planting on the site, in terms of mitigating the landscape impact of the development. The development now being considered has largely removed the trees on site, and poor/limited mitigation planting has been proposed. As explained in more detail below, the loss of this swathe of trees is to the detriment of the scheme in visual amenity terms; and the application fails to provide adequate mitigation to compensate against the loss of these positive landscape features.
- 7.39 In considering the consultation responses, it is agreed that the site's extension; the level of engineering works undertaken within the southern section of the site; the addition of 50 additional caravans; the loss of protected trees; and the increased light pollution resulting from more static caravans that are occupied permanently, will not conserve and enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, and it would not positively recognise the intrinsic character and beauty of the countryside hereabouts. The adverse impact upon this nationally designated landscape of the highest value weighs against this development.

Arboricultural/landscaping implications

- 7.40 As previously set out, whilst planning application reference: MA/13/1435 remains valid, it is incapable of full implementation as the works were carried out without approval of conditions; and notwithstanding this, what has been

stationed/constructed on site is not as per the approved drawings. As such, any development relying upon this permission will not be authorised.

- 7.41 The development submitted under MA/13/1435 included the retention of the protected coppice woodland in the south-eastern corner of the site; the retention of existing trees on the lower section of the site; the planting of interspersed specimen trees and a new hedgerow along the southern boundary of the site; and the creation of a new woodland area in the south-western corner of the site (stated at some 400 new trees). It is clear that the protected trees that were found in the lower section of the site have largely been removed; and the new woodland, specimen trees and hedgerow have not been planted. Instead, the lower section of Pilgrims Retreat is densely populated with static caravans and associated roads/hardstanding.
- 7.42 It must be made clear that the officer was minded to recommend approval of the development shown under MA/13/1435 on the basis of the importance of substantial mitigation as shown on the approved plans. It should also be noted that the development approved under MA/13/1435 did not increase the number of caravans on the site, which remained at 198, allowing for a softer less intense development of caravans across the whole site. Indeed, the committee report's conclusion states:

6.2 Proposed scheme includes stationing of 58 additional caravans, 11 lower than previously proposed, and which when combined with those already on site would be below the 198 permitted. Proposal includes significant amount of landscaping with a mixture of approximately 400 new native trees and shrubs that are in keeping with the landscape character of the area. A significant woodland area is now proposed in the southwest corner which would soften public views from the west and south here. The mix of new species would also result in an enhancement in biodiversity from the previous hawthorn scrub.

6.3 Application would allow unambiguous control over remaining landscape areas through conditions and landscape management and maintenance regimes.

6.4 Site is an existing caravan site which is visible and out of place in the Kent Downs AONB. The proposal, whilst extending the site southwards, due to the extensive new landscaping and changes to the banks to soften their appearance would not result in significant additional harm to the character and appearance of the Kent Downs AONB.

6.5 Overall, I consider that the proposed reduction in caravans and increases in landscaping are sufficient to overcome the previous reasons for refusal and on this balanced case I consider that the harm caused is not so significant to warrant refusal when balanced against the landscape replacement, biodiversity improvements and future control over the site, and permission is recommended.

- 7.43 The current layout of the site has retained some existing trees. However, the Council's Landscape Officer questions their suitability for long-term retention, given the significant encroachment into the root protection areas during construction works; the significant changes in levels likely to lead to premature decline; and the inappropriate proximity of protected trees to occupied units that are resulting in applications for works to protected trees because of safety fears as the trees are 'too close to park homes'. As will now be summarised, the Landscape Officer objects to the development for the following reasons:

Direct loss of trees and woodland

- 7.44 Whilst an assessment cannot be made on the quality of the trees/woodland lost, the retention of this planting was key in the determination of MA/13/1435 in terms of screening the development and to safeguard amenity space for residents. Retained mature tree stock is an important visual element of large sites, acting as a foil to built forms, filtering views and providing some screening in longer views to ensure developments sit well in surrounding countryside.

Indirect loss of trees & pressure for inappropriate pruning/removal

- 7.45 The site layout has not respected the location of existing trees, which has resulted in development that is inappropriately close; and development has clearly taken place within RPAs, contrary to advice contained within BS5837:2012. This includes not only the siting of park homes within RPAs, but extensive ground level changes, excavations that have resulted in root severance, and ground compaction from the use of heavy machinery. It is clear that most of retained tree stock is suffering as a result, with many trees showing signs of premature decline.
- 7.46 The inappropriate relationship between retained trees and park homes has already led to works, some of which have been subject of applications under the TPO, to prune or remove trees simply on the basis they are too close to homes, or because the trees are showing signs of decline. Such applications are particularly difficult to resist when the juxtaposition of mature trees and park homes mean that even minor deadwood failures could result in building and property damage, or injury to occupiers. Occupants are clearly concerned about fear of failure in our experience of dealing with applications, and also complain about other problems such as leaf litter and shading. The result of this situation is any retained mature trees will either die or be pruned to such an extent they have little, if any, public amenity value.

Inadequate space for mitigation planting

- 7.47 The cramped site layout and lack of space around and between the park homes does not allow for new planting of a type appropriate to the landscape character of area to mitigate extensive tree loss on the site. This includes the trees already lost, and likely to be lost as a result of premature tree decline and pressure to prune or fell. The many Chusan Palms planted are not considered to be adequate mitigation, as these are not trees, but woody herbs and certainly not a species that are appropriate to the character of area. Replacement tree planting should be in accordance with Council's Landscape Character guidance, with species of a suitable ultimate size to ensure the development sits well in surrounding landscape, with sufficient space to ensure they can reach mature size without conflict. The layout does not provide sufficient structural landscaping space to enable this.

Summary

- 7.48 It is considered that the development has and will result in permanent tree loss on a scale that is harmful to the amenity of park home users and the wider landscape; and there is insufficient space to be able to provide mitigation planting to help screen and integrate the development into the surrounding countryside. This weighs against the development.

Foul and surface water disposal

- 7.49 The development site is within Flood Zone 1 and the Environment Agency has assessed the application as having a low environmental risk and has raised no objections (notwithstanding the applicant may be required to apply for other consents directly from the Environment Agency). Southern Water has also raised no objection; and the Environmental Protection Team would seek details of the packaged treatment plant. The KCC Drainage Team has also assessed the development as a low risk development and require no further information but do comment that the proposed improvements to the ditch, through incorporating check dams, should be applied to the trench as the attenuation volume within the ditch would be increased.
- 7.50 Notwithstanding this, it is considered important under this planning application to ensure that the site provides adequate provisions of foul and surface water disposal for a site with 248 residential units. Indeed, this development is in part retrospective, and it is not considered appropriate to deal with these matters by way of condition if the application was to be approved, when the site is occupied

and it is not known if the surface water and sewage disposal systems are adequate. Furthermore, the site licence conditions relating to drainage and sanitation, which in any case are model conditions that are very subjective and vague, are not currently enforceable as the site licence is invalid.

- 7.51 As set out in the amended FRA and Drainage Strategy Report (Aug 2019), the existing situation is as follows:

SURFACE WATER DRAINAGE: Rainwater drains from the roofs of the caravans via downpipes onto impermeable surfacing. Several gullies across the site then transport water to the ditch at the southern end of site. Water overflow also goes to the ditch.

FOUL SEWAGE DISPOSAL: There are 3 package treatment plants on the site that also discharge to the southern ditch. The package treatment plant at the south-western corner of site is overflowing, with untreated foul waste draining into small ditch. The Environment Agency are apparently aware of this ongoing issue and the applicant is waiting for an insurance agreement to provide a replacement treatment plant.

- 7.52 In terms of surface water drainage, the submitted report considers infiltration SuDS presents the most viable solution for draining surface water run-off. It goes on to state that testing will need to be carried out to confirm the viability of this across the site, and to determine whether or not the ditch has sufficient capacity to accommodate run-off for 248 residential caravans. Based on uncertainty with respect to the percolation rate of silts, the report recommends that infiltration testing is undertaken in the base of the existing ditch to confirm the existing permeability of the ground. This testing has not been carried out.

- 7.53 It is also worth noting here that there was the incident where a build up of surface water led to the collapse of a non-structural wall which could have had fatal consequences. Furthermore, with regards to the retaining wall to the rear of units 2-8 Castle Drive, for which a structural appraisal was undertaken by the applicant, the subsequently recommended assessment of the road drainage system (by a competent drainage engineer) does not appear to have been carried out or submitted as part of this planning application. Whilst this was only advisory at the time, as the Council's Building Control Team did not have the authority to pursue this matter, without it there remains uncertainty and there is the potential risk to health if this wall did indeed collapse.

- 7.54 In terms of foul sewage disposal, the report confirms that the performance of the treatment plants has not been assessed and it is not known if they also have sufficient capacity to manage the volume and rate of wastewater discharge draining to them from 248 caravans in residential use. The report recommends surveys to be carried out to determine the current capacity and performance of the network. This testing has not been carried out. The submitted information also fails to explain how, given the re-graded land and the cut and fill technique used to station caravans on the land, how the applicant is going to deal with the overflowing tank, or indeed (if required) replace or install new underground tanks on the site. It has also not been demonstrated that there is room on the site to deal with this issue, i.e. if new and/or replacement tanks will be required, what with any underground tanks having caravans above them, or very close to them.

- 7.55 This retrospective application has failed to demonstrate that surface water and sewage disposal can be dealt with appropriately on the site; and it is evident that the development is likely to create a requirement for new and/or improved surface water and sewage disposal infrastructure. The development is therefore contrary to Local Plan policy ID1, as it has failed to demonstrate the site has sufficient infrastructure capacity available either now or in the immediate future, and this raises a health and safety risk for occupants of the site.

Biodiversity implications

- 7.56 The Biodiversity Officer confirms that because the site has already been cleared, it is accepted that the preliminary ecological appraisal is sufficient to determine application, and no further ecological information is required.
- 7.57 In summary, the Biodiversity Officer is of the view that whilst replacement woodland planting and the creation of wildflower grassland strips would not completely mitigate for the loss of the woodland, it would create habitats (if managed properly) that will benefit biodiversity. If minded to approve this application, species would need be secured by way of condition with a habitat establishment plan (to be native and representative of those trees found within the adjacent woodland).
- 7.58 Given that the habitats within and adjacent to the site area are likely to experience high recreational pressure and impacts from development (including increase in lighting), the Biodiversity Officer has recommended the need for a Landscape and Ecological Management Plan to be produced and implemented. If this application were to be approved, imposing such a condition is considered reasonable.
- 7.59 Again, if minded to approve this application, suitable conditions would also be imposed for a bat sensitive lighting plan, and for further ecological enhancements as set out in the submitted preliminary ecological appraisal.

Ancient woodland

- 7.60 Ancient Woodlands are irreplaceable, and the NPPF (paragraph 175) is clear in that *"...development resulting in loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists"*
- 7.61 The woodland within the application site that runs along the roadside boundary is Ancient Woodland. Whilst static caravans and associated hardstanding etc. are within 15m of this woodland, the fallback position remains that the original appeal decision did allow for 198 static caravans to be sited in the northern section of the site; and it is accepted that the development has been within 15m of this Ancient Woodland before it was designated as such in the 2012 Ancient Woodland Inventory. It is therefore considered unreasonable to now raise an objection on this issue or insist on a buffer zone here. Notwithstanding this, the woodland in question is now designated Ancient Woodland and protected under TPO no. 10 of 2003, and so any potential works to the woodland in the future will require the consent of the local planning authority.
- 7.62 The Biodiversity Officer recommends the need for the Ancient Woodland within the application site, as well as the woodland across the road from the site (within the applicant's ownership) to be actively managed to minimise impacts from the development. Whilst a caravan site has been here for many years, the development would see an addition of 50 more static caravans that would be used for residential use above what has been previously allowed in planning terms. With 248 households permanently on the site, there is expected to be increased pressure on the Ancient Woodland, in it being used for recreation purposes by residents. The Landscape Officer also makes the point that the loss of the trees and woodland within the site, and the lack of amenity space around the caravans is likely to increase recreational activity in the Ancient Woodland across the road from the site, which is discouraged by current planning policy and standing advice. If this application were to be approved, it is therefore considered reasonable to impose a condition to secure an appropriate management plan of the woodland, to minimise impacts from the proposed development.

- 7.63 For clarification purposes, the development is not within 15m of the Ancient Woodland to the south-east of the site; and this woodland is also on land not in the ownership of the applicant.
- 7.64 As an aside, it should be noted here that the submitted Arboricultural Impact Assessment (para. 2.6) suggests that the Ancient Woodland is of 'local importance', on the basis that the local landscape is relatively rich in this habitat. This view is strongly refuted, and the NPPF and current standing advice is clear that it does not allow for such 'downgrading' of Ancient Woodland, which is considered to be of national importance and is accordingly afforded a high status in planning policy. Indeed, there appears to be no precedent set whereby Ancient Woodland was considered to be of lesser importance due to a perceived local abundance.

Community infrastructure contributions

- 7.65 This development is excluded from the CIL Regulations. This does not mean that financial contributions cannot be sought via s106 of the Town and Country Planning Act 1990. Financial contributions through s106 are used to mitigate the specific requirements of a development site, in order to make the development acceptable in planning terms. Any request for such contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The Reg 122 criteria sets out that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

- (a) Necessary to make development acceptable in planning terms;
- (b) Directly related to development; and
- (c) Fairly and reasonably related in scale and kind to development.

- 7.66 In this regulation "*planning obligation*" means a planning obligation under s106 of the TCPA 1990 and includes a proposed planning obligation.
- 7.67 The Council's Regulation 123 List identifies the infrastructure types and/or projects which it intends will be, or may be, wholly or partly funded through s106 planning obligations. The Infrastructure Delivery Plan (IDP) provides the analysis for how specific infrastructure delivery requirements will be met.
- 7.68 Specific to this application, the development is for 230 new residential units on the site, to be occupied by persons of 50yrs of age and over. A development of this scale will clearly place extra demands on local services and facilities and it is important to ensure that this development can be assimilated within the local community. As such, suitable financial contributions to make the development acceptable in planning terms should be sought in line with the relevant policies of the Maidstone Local Plan (2017), if the application were to be approved.
- 7.69 The relevant statutory providers have been consulted on this development, and they have confirmed that their financial requests are CIL compliant:
- 7.70 The KCC Economic Development Team has requested the following:
- *Primary education*: £764,520 towards expansion of Harrietsham Primary School
 - *Secondary education*: £946,450 towards extension of Maplesden Noakes School
 - *Libraries*: £33,272.46 towards improvements at Lenham library to accommodate additional borrowers
 - *Community learning*: £7,060.27 towards additional resources for new learners generated by this development
 - *Youth services*: £1,951.62 towards additional resources for youth service locally at Lenham School
 - *Social Services*: £14,618.80 towards local additional resources and community building improvements

- 7.71 The NHS Primary Care Team has requested a contribution of £193,752 to go towards the refurbishment, reconfiguration and/or extension at the Len Valley Practice (Lenham and Harrietsham Surgeries).
- 7.72 There is no publicly available open space within the site and so the Council's Parks and Open Space Team are seeking an off-site provision contribution, for the development to be in accordance with the Local Plan policy DM19. This financial request totals £362,250.00, to go towards developing, refurbishing, or maintaining existing amenity green space, play facilities, outdoor sports, allotments/community gardens, and natural/semi-natural publicly accessible open space, within a 2 mile radius of the development (which includes areas in Harrietsham and Lenham).
- 7.73 It is considered that the requested contributions relating to the NHS, parks and open space, and economic development (excluding primary and secondary education) do meet the tests of Regulations 122 of the Act and as such should be provided by the applicant if this application were to be approved.
- 7.74 The agent has questioned the figures for the education contributions, as they do not consider this to wholly relate to, or be reasonable for 230 units that are to be occupied by persons over 50yrs old; and it has been suggested that a condition is attached to any potential permission which requires occupants (or at least one occupant per caravan) to be over 50 years old. However, whilst national advice is to take a positive approach to schemes that might address the provision of specialist housing for older people, other than some communal facilities, there is little to suggest that the caravans offer specialist housing for older people. Furthermore, the location is remote and not particularly well suited to provide permanent accommodation for older people. Moreover, as the application is partly retrospective, the condition would not regulate the occupancy of the existing residential caravans or those used unlawfully as residential caravans. The caravan occupants generally own the caravans and pay rent under the Licence Agreement to station the caravan on the plot. The Licence Agreement requires sellers to obtain approval from the Park Owner to a prospective buyer of the caravan (unless a family member) but it does not restrict the onward sale of the caravan to solely persons over 50. If the Park Owner does not purchase the caravan, it appears that it can be sold to persons under 50. It is therefore not clear how the requirement could be lawfully or reasonably imposed on existing or on all future caravan owners. The potential restrictive condition cannot therefore be given other than limited weight. Notwithstanding this, it is also not entirely out of the question that residents may have children, or adopt or foster children, or are/become legal guardians of children; and the agent has failed to acknowledge this. Given that the imposition of an age restriction condition would not pass the 6 tests of when a planning condition should be imposed (as set out in the NPPG), the development should be liable for financial contributions towards primary and secondary education, and in this respect the requested contributions do meet the tests of Regulations 122.
- 7.75 The agent also argues there are significant overlaps between the CIL charging and s106 requirements, and questions whether it is lawful in requesting s106 contributions for the same piece of infrastructure. In response, the Council must ensure that applicants are not charged twice for the same infrastructure, and this is done by clearly stating on an infrastructure list how things are to be funded. The IDP also assists the Council in identifying where the infrastructure contributions will be coming from. In this instance, the IDP does not provide clarification on this point and therefore reliance is made on the CIL 123 list. This confirms that the above contributions can be sought by S106. The applicants argument is therefore not accepted.

- 7.76 To clarify, the agent has not presented an analysis or counter-offer to the CIL compliant financial requests, and they have not submitted a legal mechanism to secure any planning obligations to mitigate the development's impact. Based on the impact to the landscape character, and the inability to mitigate/compensate for this, further negotiations on acceptable contributions have not been progressed. If Members were minded to approve the application, a resolution on the appropriate contribution which met the 122 test would need to be negotiated.

Affordable housing provision

- 7.77 The Housing Manager for the Council has reviewed the agent's response with respect to affordable housing provision, and their comments will be set out below.
- 7.78 The agent states that the Council will seek provision of 20% affordable housing for schemes that provide for retirement housing and/or extra care homes. It appears they are classing this development as a retirement housing scheme and therefore take the view that 20% affordable housing should be provided. Firstly, this development is not considered to be a retirement housing scheme in the strictest sense. Such housing developments are similar to sheltered housing, but built for sale, usually on a leasehold basis, where all the other residents are older people (usually over 55). Properties in most schemes are designed to make life a little easier for older people - with features like raised electric sockets, lowered worktops, walk-in showers, and so on. Some will usually be designed to accommodate wheelchair users; and are usually linked to an emergency alarm service (sometimes called 'community alarm service') to call help if needed. Many schemes also have their own 'manager' or 'warden', either living on-site or nearby, whose job it is to manage the scheme and help arrange any services residents need. Managed schemes will also usually have some shared or communal facilities such as a lounge for residents to meet, a laundry, guest accommodation etc. It is appreciated that this is not a bricks and mortar scheme, but there appears to be limited or no such facilities/services of this nature offered to the occupants on site. There is also no presumption that all occupants on the site are retired.
- 7.79 The agent notes that in exceptional circumstances the Council will consider off-site contributions towards affordable housing where on-site provision is not feasible. The Housing Manager remains of the view that a registered provider would be reluctant to take on permanent residential caravans as affordable housing. This means a non-registered provider (who would not be regulated) would probably be required to manage the caravans which gives cause for concern. This application raises a number of management concerns and queries for the Housing Manager, such as licence/site fees and the length of licence (it is understand owners would pay a licence fee for the siting of the caravan which may be moved within the site at the site owners discretion), and security of tenure etc. Furthermore, no information has been provided regarding the specific management arrangements in this respect. Given the above, the Housing Manager considers the most appropriate way to deal with affordable housing provision would be by way of an off-site contribution.
- 7.80 So if the application were to be approved, the development should provide 40% affordable housing provision, in compliance with adopted Local Plan policy SP20. A commuted sum towards an off-site contribution has been calculated at £8,070,274. No counter offer or analysis of this figure has been submitted by the agent.
- 7.81 The agent is also proposing that the 'affordable caravans' would fall under the NPPF definition for Discounted Market Sale housing which is that sold at a discount of at least 20% below local market value. Eligibility for this is determined with regard to local incomes and local house prices; and that provisions should be in place to

ensure housing remains at a discount for future eligible households. No evidence has been submitted to demonstrate that there are the relevant eligibility mechanisms in place (for now or the future) for Pilgrims Retreat.

- 7.82 The agent states that they have assessed the local housing market and the value of the properties (2-bed bungalows) in comparison to the price of a new park home site based on market sales at the site. This demonstrating that the site is affordable and is at least 25% lower in price than the market value for new build properties. As such, the agent considers the park homes meet the definition for discounted market sales housing, being sold at a discount of at least 20% below local market value. No evidence of the above market sales comparisons has been submitted and the Housing Manager does not consider this development to be classed as discounted market sale housing.
- 7.83 The principle behind this type of affordable housing is that the market value of the actual property itself is given a 20% discount, not that it can be demonstrated that the market value of the property is 20% or more lower than comparable properties within the local area. The price of a caravan is the price of a caravan. Without seeing the comparable evidence, the Housing Manager is also of the view that it is not a fair comparison for the market value of these caravans to be compared against the local market value of 2-bed new-build properties.
- 7.84 The agent also proposes that the caravans will remain affordable in perpetuity since the market will preserve them at a discounted price given the more restrictive nature of ownership suppressing prices, with provision within the s106 to ensure they remain affordable and discounted in perpetuity. Furthermore, the agent has suggested attaching an age occupancy restricted planning condition to ensure that the proposal is providing permanent accommodation for older persons. However (as previously established) it is not reasonable to impose such a condition, and in any case the Housing Manager considers this alone does not make the development acceptable with respect to the affordable housing proposal for this application given the above concerns. Notwithstanding the above, the proposal has no affordable rented provision proposed which is contrary to being a policy compliant scheme.
- 7.85 In summary, the submitted details state that the development will provide accommodation for older people in homes which are affordable in relation to the wider housing market in locality. Meeting the housing need for older people is not only identified by the National Planning Guidance to be critical, but also meets the objectives of the Housing Act, the SHMA and the Local Plan. In addition, the number of older people is expected to increase in the future and the Council does need to consider providing opportunities for households to downsize and allow larger properties to be made available for younger families with children. However, the Housing Manager does not consider this development will provide a better choice of specialist accommodation for a group of older people with specific needs, that purpose built accommodation for the elderly would provide. It is also not considered that the development should be considered as retirement housing or Discounted Market Sale housing, and the management arrangement for the caravans remains a cause for concern. As such, the Housing Manager does not consider the development to fully accord with affordable housing policy and should not therefore be given substantial weight in the overall assessment of this application.

Other considerations

- 7.86 The Environmental Protection Team has raised no objections to the development in terms of noise; air quality; and land contamination, and so no further details are required in these respects.

- 7.87 Kent Police have no comments to make from a *Crime Prevention Through Environmental Design* aspect. Whilst they note some residents are concerned about emergency vehicle access, the Highways Authority has not raised this as an issue and this issue will not be pursued under this planning application.

Human rights and Equality Act

- 7.88 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, states everyone has the right to respect for (amongst other things) his private and family life, and his home. Refusing this application could be interpreted as an interference with the rights of the property owners to use their property as they see fit and the right to private and family life as set out in Article 8. It could also be seen as interference with owners' property rights under article 1, protocol 1. Such interference is permitted by the European Convention if it is in the general interest, but the interference must be 'proportionate', which means that it must not be in excess of what is needed to prevent harm to the general interest. Whether any actual interference ensues would ultimately be an enforcement matter. However, any interference with those human rights should be in accordance with the law and necessary in a democratic society, applying the principle of proportionality. If homes are lost then it is considered that the cumulative harms that would result from the application would be such that refusal of permission is a necessary and proportionate response.

- 7.89 The Council must also have regard to its public sector equality duty (PSED) under s149 of the Equalities Act. The duty is to have due regard to the need (in discharging its functions) to:

- *Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.*
- *Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing, minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).*
- *Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.*

- 7.90 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is considered that although the majority of occupants on site are older persons, the equality duty is not sufficiently weighty to sway the planning balance towards granting permission for the proposed scheme.

8.0 CONCLUSION

- 8.01 It is a matter of fact and planning judgement that the development would add 230 isolated homes in the countryside; and occupants on the site are/will be heavily reliant on the private car for their day to day living, making the site unsustainable in terms of location. The Highways Officer also considers the development does not meet the objectives of promoting sustainable transport, as set out in paragraphs 102 and 103 of the NPPF; and the application has failed to demonstrate that the residual cumulative vehicle movements associated to 230 new residential homes on this site would not have a severe impact on the local road network. This weighs against the development.

- 8.02 The development will not conserve and enhance the landscape and scenic beauty of the Kent Downs AONB; and it would not positively recognise the intrinsic character and beauty of the countryside hereabouts. The adverse impact upon

- this nationally designated landscape of the highest value weighs against this development.
- 8.03 The development has and will result in permanent tree loss on a scale that is harmful to the amenity of park home users and the wider landscape; and there is insufficient space to be able to provide appropriate mitigation planting to help screen and integrate the development into the surrounding countryside. This weighs against the development.
- 8.04 The part retrospective application has failed to demonstrate that surface water and sewage disposal can be dealt with appropriately on the site; and it is evident that the development is likely to create a requirement for new and/or improved surface water and sewage disposal infrastructure. As such, the development has failed to demonstrate that the site has sufficient infrastructure capacity available either now or in the immediate future, and this raises a health and safety risk for occupants of the site.
- 8.05 There are no specific objections raised to the development in terms of its biodiversity impact; and the proposed enhancements, whilst not completely mitigating for the loss of the woodland, would be of some benefit in this regard. This is considered to be neutral matter, neither weighing against or in favour of the development.
- 8.06 There are no specific objections raised to the development in terms of its impact upon Ancient Woodland; and if minded to approve this application, suitable conditions could be imposed to secure an appropriate management plan of the Ancient Woodland in the ownership of the applicant, to minimise impacts from the proposed development. This is considered to be neutral matter, neither weighing against or in favour of the development.
- 8.07 The requested financial contributions relating to the NHS, parks and open space, and economic development are considered to meet the tests of Regulations 122 of the Act and as such should be provided by the applicant if this application were to be approved. The agent has not submitted a legal mechanism to secure these planning obligations to mitigate the development's impact, and this weighs against the development.
- 8.08 The development is not considered to provide for retirement housing and/or extra care homes, or Discounted Market Sale housing, in planning policy terms; and the Housing Manager considers the most appropriate way to deal with affordable housing provision to be by way of an off-site contribution. The agent has not submitted a legal mechanism to secure off-site affordable housing provision to help mitigate the development's impact, and this weighs against the development.
- 8.09 No specific objections have been raised against the development in terms of noise; air quality; land contamination; and crime prevention. These are considered to be neutral matters, neither weighing against or in favour of the development.
- 8.10 Whilst the proposed scheme would increase the supply of homes and would provide an additional choice to bricks and mortar homes, the Council is in a position where it can demonstrate a 6.3yrs worth of housing land supply as from April 2019. Only moderate weight should be attached to the increased supply and choice of a home.
- 8.11 The issue of intentional unauthorised development is a material consideration in the determination of this appeal, and this does weigh against the development.

- 8.12 Specific to this development, human rights are qualified rights, and so there needs to be a balance between the rights of the residents and the rights of the wider community. In this case, the interference would be due to pursuing the legitimate aim of protecting the countryside in a nationally designated AONB; and it is considered that the recommendation in this report would not have a disproportionate impact upon any protected characteristic in terms of the Equality Act. To quantify further, this is a part retrospective application whereby some 193 protected persons are already living permanently on site. In purely planning terms, purchasers of the caravans should have been aware that the lawful position on the site was for 18 permanent and 180 tourist accommodation units; and that the site licence at that time set out the licensing conditions on the site. It should also be pointed out that this recommendation does not commit the Council to any particular course of action, it only assesses the merits of the application against established development plan policies.
- 8.13 The proposed scheme constitutes “major development” in terms of paragraph 172 of the NPPF. Great weight must be given to conserve and enhance this landscape of scenic beauty. It is not simply a matter of weighing all the material considerations in a balance, but to refuse this application unless satisfied that (i) there are exceptional circumstances, and (ii) it is demonstrated that, despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest. In terms of the assessments referred to in paragraph 172 of the NPPF, the need for the development is not so great that it could be concluded that it is in the public interest to grant it, or that it would be particularly exceptional. The impact on the local economy if it is refused would not be significantly harmful. The Local Plan has addressed housing need outside the AONB and the housing supply continues to be healthy. There would be detrimental effects on the environment and on the landscape which could not be adequately moderated. Overall there are no exception circumstances for allowing the development and it has not been demonstrated that it would be in the public interest. For the reasons outlined, and on this basis, a recommendation of refusal is therefore made.

9.0 RECOMMENDATION: REFUSE for the following reasons:

1. The development, by virtue of the site’s extension and the level of engineering works undertaken to create terracing, hardstanding, and retaining walls within the southern section of the site; the loss (and further potential loss) of woodland and protected trees; the inadequate and inappropriate mitigation planting proposed; the addition of 50 more static caravans; and the increased light pollution resulting from more static caravans that are occupied permanently, fails to conserve and enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, as well as the intrinsic character and beauty of the countryside hereabouts. The adverse impact upon this nationally designated landscape of the highest value is contrary to policies SS1, SP17, DM1, DM3 and DM30 of the Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment (March 2012 amended July 2013) and 2012 Supplement; the National Planning Policy Framework; and the Kent Downs AONB Management Plan (2014-19) and its Landscape Design Handbook.
2. The development is considered to be a major development in the Kent Downs Area of Outstanding Natural Beauty, and there are no exceptional circumstances to permit this development, and it has not been demonstrated that the development is in the public interest. The development is therefore contrary to paragraph 172 of the National Planning Policy Framework.

3. The development would authorise 230 residential units in an isolated location that would also have poor access to public transport and be remote from local services and facilities, resulting in occupants being reliant on the private motor vehicle to travel to settlements to access day to day needs. In the absence of any overriding justification or need for the development demonstrated in the application, this is contrary to the aims of sustainable development as set out in policies SS1, SP17 and DM1 of the Maidstone Local Plan (2017) and the National Planning Policy Framework (2019).
4. The application has failed to demonstrate that the residual cumulative vehicle movements associated to 230 new residential homes on this site would not have a severe impact on the local road network. This is contrary to policies DM1 and DM30 of the Maidstone Local Plan (2017) and the National Planning Policy Framework (2019).
5. The application has failed to demonstrate that the site can provide adequate provisions for foul and surface water disposal for 248 residential units, posing a health and safety risk to the occupants of the site. This is contrary to Local Plan policy ID1, and the National Planning Policy Framework (2019).
6. In the absence of an appropriate legal mechanism to secure necessary contributions towards community infrastructure in the borough, the impact of the development would place unacceptable demands on local services and facilities. This would be contrary to Local Plan policies SS1, ID1 and DM19 of the Maidstone Local Plan (2017); and the National Planning Policy Framework (2019).
7. In the absence of an appropriate legal mechanism to secure affordable housing provision, the development would fail to contribute to the proven significant need for affordable housing in the borough. This would be contrary to Local Plan policies SS1, SP20, and ID1 of the Maidstone Local Plan (2017); and the National Planning Policy Framework (2019).

Case Officer: Kathryn Altieri



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
BRISTOL BS2 9DJ

Direct Line 0117-987-8927
Switchboard 0117-987-8000
Fax No 0117-987-8769
GTN 1374

CR 636

Mr J R M Ridgwell
Fleury Manico
Pavilion View
19 New Road
BRIGHTON
BN1 1UF



Your Reference:
JR/mjs/21045
Council Reference:
G77/E/989, 414/02/115/2502 &
MA/96/1132N
Our Reference:
T/APP/C/96/U2235/643713-4
T/APP/U2235/A/96/273772/P6

Date: 26 JUN 1997

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 AND 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEALS BY ARTHUR FITT LEISURE GROUP
LAND AT HOGBARN CARAVAN PARK, HOGBARN LANE, HARRIETSHAM**

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeals against two enforcement notices issued by the Maidstone Borough Council and a refusal of planning permission by the same council, both concerning the above mentioned land. I held an inquiry into the appeals on 15 and 16 April 1997. The evidence as to fact given by Mr Gannon and Mr Jarvis was taken on oath.

2. Both the notices were issued on 14 June 1996.

Notice A

- The breach of planning control as alleged in the notice is:
 - (1) The excavation, levelling and grading of the land,
 - (2) The laying of a tarmac chipping trackway,
 - (3) The installation of electrical services including lighting and caravan power connection points, and
 - (4) The erection of a toilet block and waste bin area.
- There are 5 requirements of the notice which, together, require the regrading of the levelled areas to their previous contours and the removal of the trackway, electrical services, toilet block and waste bin area. Finally, the notice requires the establishment of a specified type of woodland. The council, however, no longer wish to pursue that particular requirement.
- The periods for compliance with these requirements are three months and, in respect of the replanting requirement, the end of the next planting season.





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Direct Line 0117-987-8927
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CH 631

Mr J R M Ridgwell
Fleury Marico
Pavilion View
19 New Road
BRIGHTON
BN1 1UF

MAIDSTONE BOROUGH
SECRETARIAT'S DIVISION
RECORDED

27 JUN 1997

PH/CT

Your Reference:
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Council Reference:
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Notice B

- The breach of planning control as alleged in the notice is the change of use of the land to use as a caravan site.
 - The requirements of the notice are to stop using the land as a caravan site and to excavate and remove all electrical services, fittings and fixtures from the land.
 - The period for compliance with these requirements is one month.
3. The appeals were made against Notice A on grounds (a), (d) and (f), and against Notice B on grounds (a) and (c), as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991. Prior to the inquiry ground (c) was withdrawn in respect of Notice B.

The appeal made under section 78

4. The development for which the Council has refused planning permission is use of the land for the siting of 180 holiday caravans and 18 residential caravans. The application site consists of the existing caravan park and land to the south-east. The land to the south-east is subject to the enforcement notices.

The sites of the appeals

5. The approximately 5.26 hectares (13 acres) caravan site, permitted in 1967, is in a relatively isolated rural location to the north of the crest of the North Downs escarpment. The permission limits the number of residential caravans to 18 and holiday caravans to 180 and the use to the period 1 March to 31 October in any year. A later permission authorises 30 pitches for tented camping. The site is provided with amenity rooms with licensed club and restaurant, play areas and a covered swimming pool as well as the normal facilities and site manager's accommodation. The permitted site is operated, as a matter of management choice, on the basis of 2 residential caravans, 167 caravan pitches and space for some tents. The tent area could hold 6 large frame tents or more smaller tents.

6. The area of the enforcement notices, about 3 ha (7.41 acres), is the steeply sloping side of a dry valley covered in mainly hawthorn woodland. A surfaced vehicular track has been cut through the woodland from the main caravan park. It links three terraces, each about 20x35 metres, which have been formed by cut and fill within the woodland on the valley side. A mobile toilet block has been sited near the entrance point and a refuse bin stand has been constructed. Three lighting columns and 10 electrical "hook up" upstands have been provided.

Matters concerning the notices

7. At the start of the inquiry I raised the question of the effect of s173(11) since it appeared to me that, bearing in mind the judgement in *Murfit v SSE & E Cambridgeshire DC* [1980] JPL 598 a notice alleging a material change of use could require works to be removed, provided they formed an integral part of the breach of planning control complained of. Indeed Notice B, as issued, included the removal of an item of operational development, which is also covered by Notice A, in its requirements. To the extent that Notice B under enforces by not requiring the removal of all the elements of operational development which had facilitated and formed an integral part of the change of use, it is arguable that s173(11) would have the effect of giving them planning permission. The two notices are not on all fours with the two notices in *Millen v SSE & Maidstone BC* [1996] JPL 735 but the implications are similar. The effect of s173(11) on Notice B could be to cancel out Notice A, other than to the extent of the limited operational development requirement in Notice B.

8. The council say that the matter can be put right by removing all reference to operational development in the requirements of Notice B, thus putting all operational development matters into

one notice and the change of use into the other. However, that does not overcome the *Millen* point unless it can be shown that the operational development did not form an integral part of the change of use and thus *Murfit* does not apply.

9. You say that the operational development was carried out to facilitate a use which did not require planning permission since it was permitted development. The use which does require permission, the caravan site use in Notice B, came along later. The discovery that there had been a use beyond permitted development rights (Class B Part 4 and Class A Part 5 of the 1988 GDO) caused the withdrawal of the ground (c) appeal. As a result of that withdrawal evidence of the claimed permitted development use was not explored at the inquiry; the point was only made in closing in responding to the *Millen/Murfit* point. Both the permitted development rights referred to (rallies by exempted organisations lasting up to 5 days and tent camping) relate to essentially temporary uses of land. The operational development was carried out to provide a permanently available facility as an extension to the permitted caravan site, even though it may have been used by exempted organisations and for tents. Prior to the works being carried out the natural slope of the land made such use impractical. Moreover, access is through the main caravan site and the recreational facilities of the main site were available to those on the extended site. It is my assessment that in making the enforcement notice land permanently available for use by caravans through the alleged operational development the planning unit of the lawful caravan site was extended. A material change of use took place and the operational development facilitated it and was an integral part of it. Looked at another way, the fundamental planning change which has taken place to this area of land is that it has become part of the caravan site use. The operational development is secondary to the use. There is a very clear parallel to *Murfit*, where the operational development of preparing the ground by the laying of hardcore enabled the use for the parking of heavy goods vehicles to take place.

10. I note that in *Millen* the Deputy Judge said that in the very special circumstances of that case the matter was capable of resolution by quashing one notice and varying the requirements of the other. You accept that this falls generally within the scope of s176(1) but in this case consider that to do so would cause injustice to the appellant. It is your client's case that the first terrace and the access to it was substantially completed as a discrete piece of operational development more than 4 years before the notice was issued. If it is immune the local planning authority, through its committee, has not had the opportunity to consider whether they would consider Notice B should be amended or whether they would not wish to take action in recognition of that immunity. There could be no certainty that if the notices were quashed the committee would decide to re-issue one notice in the different format. Thus to amend the notices now does not short circuit an inevitable process.

11. I agree that there can be no certainty how a committee would respond. However, it is clear that the council's case is that the operational development should not be considered separately from the use. In the event of me finding for them on the use they urge that the operational development should not be allowed to remain. At the inquiry the council did not argue that the requirements of Notice A could not or should not be incorporated in Notice B. There is no evidence to suggest that the council would be unlikely to adopt that procedure were the notices to be quashed. This matter has been at large since the start of the inquiry and your client has had ample opportunity to deal with the issue. I recognise that it would deprive the appellant of the ground (d) argument in respect of the operational development but even if that were made out it would not preclude its incorporation into the requirements of Notice B. Moreover, it seems to me to be fundamentally right that operational development which has facilitated and formed an integral part of a change of use should not be able to gain immunity on a different timescale to the use which it has enabled. I do not

consider that it can be legitimately claimed that there would be injustice in the particular circumstances of this case if I were to quash Notice A and import its requirements into Notice B. I shall quash Notice A because of the conflict I have identified; the appeal on grounds (a) and (d) and the deemed application do not need to be considered. My further consideration of the appeals before me will therefore be based on the premise of an all embracing Notice B and be directed to ground (a) on that notice and the s78 appeal. I will also deal with the Notice A ground (f) appeal as if it had been made against the corrected Notice B.

The s174 appeal against Notice B on ground (a) and the s78 appeal

12. The main issues are, firstly, the impact of the development on the character and appearance of the countryside in the locality, bearing in mind that it is within the AONB and having particular regard to development plan policies concerning the protection of the countryside and those concerning tourism. The second issue is the impact on the access road leading to the site in environmental and road safety terms.

13. I deal with the second issue first since its resolution helps to throw the first issue into sharper focus. Access to the site from the A20, and hence the main M20/A20 tourist corridor through the county, is by a narrow and winding country lane which climbs the steep scarp slope of the North Downs. It is ill-suited to carry cars towing caravans or camping trailers. In many places de facto passing bays have been created by erosion of the verge, such is the road's restricted width. A caravan site was permitted here in the 1960s but I am in no doubt that such a proposal, were it made now, would be rejected on highway grounds. I also consider the deficiencies of the access road are so severe that a material increase in traffic generation from the appeal site would cause an unacceptable traffic hazard. However, the site can be lawfully used up to the permitted maximum of 198 caravans and 30 tents regardless of the highway implications.

14. The site is presently operated, as a matter of company policy, on the basis of 168 caravans and some tents¹, substantially less than the lawful level of use. I am satisfied from the plan presented to the inquiry and from what I saw at the site that the existing site is physically capable of taking a further 25 caravans and possibly a few more. I take this view notwithstanding the fact that some of the original site area has been effectively lost to built development. No doubt the site would not be so attractive to its existing visitors, many of whom, I understand, are repeat visitors, if it were to lose some of its spaciousness. You felt that it was possible that there could be some slight increase without undermining the current company policy of providing quality pitches on the site. But even if that is not right, company policy could change, or the site ownership could change and a more down market operator could seek to exploit the existing permission and licence to the full. In your experience a lot of companies would do just that.

15. If permission is given to the area covered by the enforcement notice your client would accept a condition relating to the whole of the enlarged site to limit the number to 198 units, including tents. This represents an increase in number of about 25 pitches above the present use but substantially less than the permitted use if the 30 permitted tents are taken into account. Thus to allow this appeal would not increase the potential traffic generation above that which could result from the lawful use of the existing site. It is significant that no formal objection was raised by the council's highway advisor and the council's highway case at the inquiry was put by their planning witness in general terms.

¹ See paragraph 5 above.

16. From the company's evidence of a full park throughout the 1996 six week summer season and that bookings had to be declined and customers turned away, and from your own experience of the industry, I consider it is probable that without the appeal site the company would be likely to go some way to meeting this demand on the existing site within the terms of the permission and licence. I think it unlikely, based on current policy, that they would risk the character of the site by accommodating the full 25 pitches, but in the longer term a different operator with different objectives is a clear possibility. I do not find the council's case a cogent argument for concluding that this outcome is less rather than more likely; it is a real possibility. Therefore, I conclude that there is no sustainable argument that a limited permission would cause an unacceptable hazard to road safety or lead to unacceptable environmental harm to the countryside through increased traffic.

17. The development plan comprises the 1996 Kent Structure Plan and the 1993 Maidstone Borough Local Plan. Development which adversely affects the countryside is to be resisted; the countryside, especially in the AONB, is to be conserved and enhanced. This is the thrust of KSP policies S2, ENV1, 2 and 3. Policy ENV7 indicates that it is also policy to maintain tree cover in the county. The few exceptions provided for in those policies, for example to meet the social and economic requirements of local communities, do not relate to the appeal proposal. Tourism is an important element of strategic policy and the availability of high quality facilities in an attractive environment is seen as critically important. Policy TO1 is to normally permit new tourism facilities where they make an important contribution to upgrading the tourism attractions of the county provided they are consistent with environmental policies and designed in sympathy with the landscape and setting. Again, provided there is consistency with environmental policies, proposals for the development of touring and camping facilities will normally be permitted where they are well related to the primary transport network and either the ports of entry, the Channel Tunnel terminal or major visitor attractions.

18. The adopted local plan supports the countryside conservation policies in its strategic counterpart. The balance between meeting the needs of tourism and the conservation of the countryside is also recognised. Policy C1 specifically indicates that within the rural area one of the allowable types of development is that relating to tourist accommodation as indicated in policies RT28-31. Under policy RT31 the council will give favourable consideration to caravan proposals provided they have adequate access, are well screened and would not prejudice the landscape quality of their setting, would not have an unacceptable environmental effect and would not conflict with other policies.

19. Both parties agree that this is the sort of case where the principle of what is proposed finds support in the tourism policies of the development plan and where it is necessary to strike a balance between that and the impact on the countryside. I share the council's view that the impact is not simply a visual impact but is a wider one which goes to overall countryside character. Having said that I shall address the visual impact first since that is the main impact.

20. The enforcement notice appeal site is, apart from the cleared areas, covered in a fairly dense hawthorn thicket some 4 to 5 metres high. The only significant public view of the area is from the public footpath to the south and a nearby lane. From here the thicket appears as an extension of adjoining woodland. Caravans on the first terrace would be visible from a relatively short length of the footpath, and a point on the lane to the south, through a gap in the thicket but caravans on the other terraces would not be seen. The first and third lamp posts are also visible from the footpath. This is a very sensitive area of landscape that has already suffered visual damage through the existing caravan site which, because of the topography, is prominent over the south-western boundary planting

in views from the footpath. Given the important planning objective of conserving the landscape in the AONB I consider that any material increase in the visual prominence of this caravan site would be unacceptable.

21. However, your client, on the advice of his landscape architect, proposes certain works of mitigation. It is proposed to replace the lamp standards with 1.0-1.5m high bollard lighting with louvred directional light units. In the day they would not be visible from outside the site and at night the impact would be minimal. I recognise that light pollution in the countryside can lead to a loss of the sense of isolation and rurality but in this case, given the presence of the existing site and limited views, and provided suitable luminaires are chosen, I consider the impact would be negligible. The toilet block, although not visible from outside the site is to be removed. In addition to additional planting on the newly cut slopes a 10m deep block of hawthorn planting, reinforced with oak, would fill the gap through which the first terrace can be seen. A line of ash on the field boundary would provide screening in depth. These seem to me to be well thought out proposals and I see no reason to dispute the landscape architect's conclusion that they would provide an effective screen in about five years time. Your client is prepared to accept a condition that the first terrace shall not be used for the siting of touring caravans until the council are satisfied that there is an effective screen. The combined effect would be that the development would not be visible to the public outside the site.

22. Even so, the loss of tree cover, albeit naturally regenerated hawthorn thicket; the reshaping of a natural landform, albeit a common enough feature; the loss of a particular habitat, albeit not of recognised local or statutory significance; and the concept of protecting the countryside for its own sake from the development of fresh land, are other matters which tell against the development. I also recognise that development in the countryside is not made acceptable just because it cannot be seen; it could be repeated too often, albeit that proposals to extend existing caravan sites are unlikely to arise frequently. However, when I set these considerations in the context of no increase in the permitted level of use, no material visual impact and the policy support for tourism – in particular policy RT31 with which there is no conflict – I find that the impact is not so harmful as to justify a refusal of planning permission. Some local residents fear an increase in noise disturbance but given that the extension would be no nearer to dwellings than the existing site I do not consider that objection can be substantiated.

23. There are two other aspects raised by the council. Firstly, if this extension is agreed where do extensions stop on this site, and, secondly, the impact of this extension should be compared with the impact of expanding within the existing site to the lawful level of use. On the first issue there is a very clear restriction on the creation of a fourth or fifth terrace. Immediately adjacent to the third terrace there is a large dene hole which would limit further physical expansion. Of greater significance, however, is the numbers limit I intend to impose through condition. It is clear from my reasoning above that I have been substantially influenced by the fact that there will be no increase in overall intensity beyond permitted levels; indeed, there is the small planning gain of a reduction when tents are taken into account. I am satisfied that the site is already at its limit in terms of numbers and there was no evidence to show where further physical extensions which would not harm the landscape could take place.

24. I am not convinced that the appellants need to show that more harm would flow from accommodating the lawful level of use within the existing site, provided it can be shown that the extension would not cause unacceptable harm. Nevertheless I consider that the change to the character of this small area of countryside, referred to in paragraph 22, which would not occur if the additional pitches were accommodated within the existing site is outweighed by the benefit to tourists

through maintaining the quality of the caravan site. KSP policy TO1 and the written statement recognise the benefits of upgrading tourist facilities and achieving high standards. A move in the opposite direction would run counter to that policy objective.

25. I now turn to consider the conditions which should be attached to the planning permission I intend to grant. I have already justified the limitation on numbers, the restriction on use of part of the enforcement notice land, the lighting scheme and the landscaping. Removal of the toilet block, as built development on the appeal site, is offered and would be appropriate. Seasonal use, which already applies, needs to be re-imposed. Careful control over the use of the whole site and adjoining land within the control of the appellant is necessary because of the sensitive location and your client would accept removal of Part 4 and 5 permitted development rights. Your client offers a limitation to a maximum of 25 touring caravans on the notice land and I agree that it is a desirable safeguard.

26. The council seek a thickening of the 2m planting belt on the south-western boundary of the existing site to 3m. Your client considers that an unreasonable loss of amenity land adjoining existing caravans, bearing in mind that the existing planting is now maturing. I looked at this belt at my site visit from close to and from the public footpath in terms of potential screening. It seemed to me that it would benefit from improved management and some replacement planting as much as it would from an additional metre of planting. Because that belt is largely on lower land than much of the site many of the caravans are likely to remain visible from the footpath over the top of the planting for some considerable time regardless of the depth of planting. I am not convinced that an additional metre of planting would be so significant that it can be justified in the context of these appeals.

27. The appeal on ground (a) succeeds and permission will be given on the deemed application and on the section 78 appeal. The enforcement notice will be quashed. The appeal on ground (f) does not therefore need to be considered.

28. In reaching my conclusions on all these appeals I have taken into account all the matters raised in the representations but none outweighs the considerations which have led to my decisions.

FORMAL DECISIONS

29. For the above reasons, and in exercise of the powers transferred to me, I determine these appeals as follows:

The appeal under S174 against Notice A [Department's Reference T/APPC/96/U2235/643713]
I direct that the enforcement notice be quashed.

The appeal under S174 against Notice B [Department's Reference T/APPC/96/U2235/643714]
I allow your client's appeal and direct that the enforcement notice be quashed. I hereby grant planning permission on the application deemed to have been made under S177(5) of the amended Act for the development already carried out, namely the use of the land at Hogbarn Caravan Site, Hogbarn Lane, Harrietsham, as shown on the plan attached to the notice, for use as a caravan site subject to the following conditions:

1. The combined areas shown edged red and edged and hatched red ("the site") on the plan submitted with planning application reference MA/96/1132 dated 23/08/96 ("the plan") shall be used for a maximum of 18 residential caravans plus holiday units comprising static

- caravans, touring caravans and tents, subject to the number of such holiday units not exceeding a total of 180.
2. The site shall not be open to touring caravans and tents, and static caravans shall not be occupied, between 1 November in any one year and 28 February in the succeeding year.
 3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no caravan or camping development permitted by Article 3(1) and Parts 4 and 5 of Schedule 2 of that Order shall take place on the site or the area edged blue on the plan.
 4. Within the area hatched and edged red on the plan only touring caravans shall be sited, with a maximum number of 25 at any one time, and, subject to condition 5, only those areas which have already been cleared and levelled shall be so used.
 5. The most western of the three cleared and levelled areas within the area hatched and edged red on the plan shall not be used for the siting of touring caravans until the local planning authority have indicated in writing their satisfaction that the planting required under condition 6 has matured sufficiently for the presence of caravans on that part of the site to be no longer visible from the public footpath to the south of the site.
 6. The use hereby permitted shall cease within 28 days of any one of the following requirements not being met:
 - (i) within 3 months of the date of this letter there shall have been submitted for the approval of the local planning authority a scheme for the provision and management of landscaping and for replacement lighting within the area hatched and edged red on the plan and for additional planting within and future management of the existing landscaping strip on the western boundary of the area edged red on the plan (hereafter referred to as a landscaping scheme) and the said scheme shall include a timetable for its implementation.
 - (ii) within 11 months of the date of this letter a landscaping scheme shall have been approved by the local planning authority or, if the local planning authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted by the Secretary of State for the Environment.
 - (iii) in the event of an appeal being made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
 - (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme.
 7. In the event of the use ceasing by virtue of condition 6, the following actions shall be taken on the land edged and hatched red on the plan within three months of the use ceasing:
 - (i) excavate the levelled areas and regrade the land to that previously existing to match the surrounding slope and levels;
 - (ii) excavate the trackway and remove all resultant materials from the land; and
 - (iii) excavate and remove all electrical services, fittings and fixtures.
 8. The existing mobile toilet block sited within the area hatched and edged red on the plan shall be removed within one month of this decision.

The appeal under S78 (Department's Reference T/APPA/2235/A/96/273772/P6)

I hereby allow your client's appeal and grant planning permission for the use of the land for the siting of 180 holiday caravans and 18 residential caravans in accordance with the terms of the application (No. MA/96/1132) dated 23/08/96 and the plans submitted therewith, subject to conditions identical to those set out above.

30. These decisions do not convey any approval or consent required under any enactment, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

RIGHTS OF APPEAL AGAINST DECISIONS

31. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal against my decisions to the High Court are enclosed for those concerned.

Yours faithfully



A D KIRBY RD* MA MSc FRTPI FRSA
Inspector

ENC



Directorate of Change, Planning and the Environment
Maidstone House, King Street, Maidstone, ME15 6JQ

DEVELOPMENT CONTROL

Mr Mark Southerton
Springfield
Gawtersyke
Kirbymoorside
North Yorkshire
YO62 6DR

My Ref: MA/13/1435
Date: 31 October 2013

TOWN AND COUNTRY PLANNING ACTS

Town and Country Planning (General Permitted Development) Order 1995
Town and Country Planning (Development Management Procedure) (England) Order 2010

TAKE NOTICE that **THE MAIDSTONE BOROUGH COUNCIL**, The Local Planning Authority under the Town and Country Planning Acts, has **GRANTED PLANNING PERMISSION** in accordance with the details set out below:

APPLICATION: MA/13/1435

DATE RECEIVED: 16 August 2013 DATE VALID: 16 August 2013

APPLICANT: Sines LLP

PROPOSAL: Application to vary condition 4 of MA/96/1132 to allow an expansion of the area used for siting static caravans and operational development to alter land levels (partly retrospective and resubmission of MA/13/0724) as shown on A4 site location plan and drawing nos. PR102a (cross section), PR102a (existing contours), and PR103b received on 16th August 2013, and PR101c received on 21st October 2013.

LOCATION: PILGRIMS RETREAT, HOGBARN LANE, HARRIETSHAM, MAIDSTONE, KENT, ME17 1NZ

GRID REF: 588508, 154893

This permission is **SUBJECT** to the following conditions:

1. Within 2 months the following details shall be submitted to and approved in writing by the Local Planning Authority:-

DEC1fulac

Continuation of decision: MA/13/1435

- a) Full and specific details of all proposed trees and hedgerows including locations, species mix and sizes, and a plan clearly showing all existing trees as being retained.
- b) Cross section plans to show the re-grading of the land in the southern corner of the site where the sewage plant access and woodland area is shown.
- c) Full details of the wildflower and grass mix.
- d) Planting and staking details for the proposed selected heavy standard trees.
- e) Details of the type of weeding to be used around the newly planted trees (e.g. cultural, mechanical or chemical) together with a full maintenance programme specifying watering and weeding and replacement of failed stock.
- f) Details of tree protection around the existing retained trees in accordance with BS5837:2012.
- g) Measures for protection of the landscaping scheme during the course of development and a programme for the approved scheme's implementation and long term management.

The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: To ensure a satisfactory appearance to the development.

2. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the implementation plan approved under condition 1. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

3. Prior to the occupation of any of these units full details of the future management of the retained coppice to the east of the development site and how the area is to be used as amenity for the local residents shall be submitted to and approved in writing by the Local Planning Authority and the development

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

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DEC1 fulac

Continuation of decision: MA/13/1435

shall be undertaken in accordance with the approved details;

Reason: No such details have been submitted and to ensure the woodland is appropriately maintained.

4. All accommodation units permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

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

A4 site location plan and drawing nos. PR102a (cross section), PR102a (existing contours), and PR103b received on 16th August 2013, and PR101c received on 21st October 2013.

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

Informatives set out below

With regard to condition 1 (landscape implementation), the Council would expect at least the woodland area with specimen trees within the south corner of the site to be implemented within the current planting season (by the end of February 2014).

This application has been considered in relation to the following policies:

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV33, ENV34, ED20

South East Plan 2009: N/A

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

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

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Continuation of decision: MA/13/1435

Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The application was acceptable as submitted and no further assistance was required.

The application was approved without delay.

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

Signed

R. LL Jarman

Rob Jarman
Head of Planning

Date 31 October 2013

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

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Continuation of decision: MA/13/1435

~~~~~  
**THIS IS NOT A BUILDING REGULATION APPROVAL**

It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations, where required, and any other necessary approvals, have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.

**TAKE NOTICE** that this decision does not confirm compliance with Section 53 of The County of Kent Act, 1981 and, therefore, it will be incumbent upon the applicant to ensure they comply with the said requirement.

~~~~~

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Peter Lead
 Planning
 Consultant

07768 881950
 peterdawnlead@aol.com

MA/13/1435

21/10/13

-  Embankments
-  Plots for 20x40 homes
-  Plots for 20x45 homes
-  Car parking bay
-  Existing trees
-  Areas of new tree planting
-  Specimen Hawthorn
-  Specimen Hornbeam
-  Specimen Pendunculat Oak
-  New woodland

New hedgerows Guelder Rose 10% Hawthorn 70% spindle 10% 10% Buckthorn or Field Maple 85% Holly 15% or Hazel 100% or a combination.

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AMENDED

PILGRIMS RETREAT HOGBARN LANE
 HARRIETSHAM MAIDSTONE KENT

Proposed Layout
 Scale 1:1000 on A3
 Date 19/10/2013
 Ref PR101c

Kathryn Altieri
 Planning and Building Control
 Maidstone Borough Council

Sent by email to:
Planningsupport@midkent.gov.uk

12 June 2019

Dear Kathryn

Application: 19/502469/FULL: Pilgrims Retreat, Hogbarn lane, Harrietsham

Retrospective planning application for the change of use of land from mixed uses (leisure 180 caravans) and residential (19 caravans) for a residential park home site comprising 248 caravans, including engineering works to create terracing, retaining walls and the extension of the site along the south eastern boundary.

Thank you for consulting the AONB Unit on the above application. The following comments are from the Kent Downs AONB Unit and as such are at an officer level and do not necessarily represent the comments of the whole AONB partnership. The legal context of our response and list of AONB guidance is set out as Appendix 1 below.

Pilgrims Retreat lies within the Kent Downs AONB. The application should therefore be tested against the purpose of the AONB designation, to conserve and enhance the natural beauty of the AONB, in line with paragraph 172 of the NPPF and policy SP17 of Maidstone's Local Plan. Under the Countryside and Rights of Way Act, local authorities are required to prepare an AONB Management Plan which must "formulate the policies for the management of the AONB and for carrying out their functions in relation to it". The Kent Downs AONB Unit produces a Management Plan on behalf of the local authorities within the AONB. The Management Plan has been formally adopted by the local authorities in Kent in which the AONB occurs, including Maidstone Borough Council. The national Planning Policy Guidance confirms that Management Plans can be a material consideration in planning decisions and this view is confirmed in previous appeal decisions, including APP/U2235/W/15/3131945, Land west of Ham Lane, Lenham, Maidstone, where at paragraph 48 of the Inspectorate's decision letter it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration".

The Kent Downs AONB Management Plan, Second Revision 2014-2019 can be downloaded at:

<https://s3-eu-west-1.amazonaws.com/explore-kent-bucket/uploads/sites/7/2018/04/18113849/KDAONB-Management-Plan.pdf>

The following policies from the Management Plan are considered to be of particular relevance to the current application:

Enhancing **landscapes** and life in the Kent Downs

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Kent Downs AONB Unit
 West Barn
 Penstock Hall Farm
 Canterbury Road
 East Brabourne
 Ashford, Kent TN25 5LL
 Tel: 01303 815170
 Fax: 01303 815179
 mail@kentdowns.org.uk
 www.kentdowns.org.uk

Anglesey
 Arnside and Silverdale
 Blackdown Hills
 Cannock Chase
 Chichester Harbour
 Chilterns
 Clwydian Range
 Cornwall
 Cotswolds
 Gower
 Cranbourne Chase and
 West Wiltshire Downs
 Dedham Vale
 Dorset
 East Devon
 Forest of Bowland
 Howardian Hills
 High Weald
 Isle of Wight
 Isles of Scilly
Kent Downs
 Lincolnshire Wolds
 Llyn
 Malvern Hills
 Mendip Hills
 Nidderdale
 Norfolk Coast
 North Devon
 North Pennines
 North Wessex Downs
 Northumberland Coast
 Quantock Hills
 Shropshire Hills
 Solway Coast
 South Devon
 Suffolk Coast and
 Heaths
 Surrey Hills
 Tamar Valley
 Wye Valley



SD1 The need to conserve and enhance the natural beauty of the Kent Downs AONB is recognised as the primary purpose of the designation and given the highest level of protection within statutory and other appropriate planning and development strategies and development control decisions.

SD2 The local character, qualities and distinctiveness of the Kent Downs AONB will be conserved and enhanced in the design, scale, setting and materials of new development, redevelopment and infrastructure and will be pursued through the application of appropriate design guidance and position statements which are adopted as components of the AONB Management Plan.

SD3 New development or changes to land use will be opposed where they disregard or run counter to the primary purpose of the Kent Downs AONB.

SD8 Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB, will be opposed unless they can be satisfactorily mitigated.

SD7 To retain and improve tranquillity, including the experience of dark skies at night, careful design and the use of new technologies should be used. New developments and highways infrastructure which negatively impact on the local tranquillity of the Kent Downs AONB will be opposed unless they can be satisfactorily mitigated.

SD9 The particular historic and locally distinctive character of rural settlement and buildings of the Kent Downs AONB will be maintained and strengthened. The use of locally-derived materials for restoration and conservation work will be encouraged. New developments will be expected to apply appropriate design guidance and to be complementary to local character in form, setting, scale, contribution to settlement pattern and choice of materials. This will apply to all development, including road design (pursued through the adoption and implementation of the AONB Rural Streets and Lanes Design handbook), affordable housing, development on farm holdings (pursued through the farmstead design guidance), and rights of way signage.

LLC1 The protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued.

WT1 Threats to the existing extent of woodland and transitional habitats around woodland will be resisted. Extension of both habitats types will be supported where appropriate to landscape character. The loss of ancient woodland will be opposed.

WT7 Activities and developments causing damage to woodlands, such as disease, illegal and harmful recreation, an expanding deer population, poorly managed use for game rearing and development associated with wood lotting, will be addressed by appropriate means. Inappropriate developments subject to planning control will be opposed, other available regulatory mechanisms supported, and positive, strategic management interventions pursued.

The application site lies within the Mid Kent Downs landscape character area as classified in the Landscape Character Assessment of the AONB where one of the overall landscape character objectives is identified as to seek to conserve the small scale of the roads and villages and the remote quality of the countryside and control urban fringe pressures. Within the Mid Kent Downs LCA, the site lies within the Bicknor Local Character Area where specific guidelines include seeking the use of sympathetic local materials such as brick, tile and flint.

Large scale and/or permanent Caravan Parks in the AONB rarely constitutes appropriate development as by reason of the utilitarian design of the caravans, they fail to conserve or enhance the local character, qualities and distinctiveness of the AONB and therefore fail to meet the key requirement of conserving and enhancing landscape and scenic beauty within the

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designated area. This retrospective application, which involves a significant extension in the number and density of caravans at the site, which is in a remote, rural location that is unconnected to existing settlement pattern in the locality, would fail to comply with the guidelines for development in the Mid Kent Downs LCA and would clearly be in conflict with the objectives of the Kent Downs AONB Management Plan as well as national and local plan policies that seek to conserve and enhance the AONB. Harm would be exacerbated by the removal of existing vegetation including trees, remodeling of land levels to form artificial terraces and the construction of a retaining wall, introducing a suburban feature in this rural location. Harm would also arise as a result of an increase in lighting as a result of both an increase in numbers of caravans and also the permanent, rather than temporary occupation of the caravans. The increase in the amount and density of caravans allows little in the way of significant tree planting between the units to help assimilate them into their rural surroundings. The proposed landscape mitigation is considered very meagre and fails to adequately compensate for the substantive harm that would result from the proposal.

The AONB Unit strongly disagrees with the conclusions of the LVIA submitted in support of the proposal. We do not consider the Sensitivity of the site to be 'low to medium' and given the site's location within the nationally designated AONB, on a vegetated valley side that (prior to the works) was entirely in keeping with the identified local landscape character, consider landscape value should be assessed as high. Clearance and leveling of 0.8ha of coppiced valley side with artificially engineered platforms to accommodate an expanded area of permanently stationed caravans does not in our view constitute a 'minor' change to the landscape, nor do we agree that there would be a 'low to medium' magnitude of change to landscape character. It is also considered incorrect to assess a lower impact on landscape character on the basis of a lack of wider visibility of the site. The AONB Unit considers the high sensitivity of the site and a high magnitude of change would give rise to a major adverse (i.e. significant) effect on landscape character. Furthermore, reducing assessed levels of harm on the basis of the small scale of the area affected and visual dissociation with the surrounding area is wholly inappropriate; while the site is relatively contained within the wider landscape and the development may not affect wider long distance views, this is not the sole test for acceptability of development in an AONB. The AONB is a wide and large expanse of area and any development which significantly detracts from elements which contribute to that wider natural and scenic beauty would not conserve or enhance it. The proposal would have a detrimental impact on many of the special characteristics and qualities of the Kent Downs including landform and views, tranquillity (through the introduction of additional lighting), biodiversity rich habitats and woodland and trees – contrary to the conclusion in the LVIA that 'there would only be a very minor impact on very few elements of the special qualities and characteristics of the AONB'.

In conclusion, it is considered that the proposal would weaken the characteristics and qualities of natural beauty and have a significant detrimental impact on landscape character and the proposal disregards the primary purpose of the AONB designation, namely the conservation and enhancement of its natural beauty and would therefore be contrary to both paragraph 172 of the NPPF and policy SP17 of Maidstone's Local Plan.

The Kent Downs AONB Unit therefore objects to this application.

I would be happy to discuss further if this would be helpful.

Yours sincerely



Katie Miller
Planning Manager, Kent Downs AONB Unit

Enhancing landscapes and life in the Kent Downs

APPENDIX 1

Planning consultations with the Kent Downs AONB Unit

Background and context:

The Kent Downs Area of Outstanding Natural Beauty partnership (which includes all the local authorities within the AONB) has agreed to have a limited land use planning role. In summary this is to:

- Provide design guidance in partnership with the Local Authorities represented in the AONB.
- Comment on forward/strategic planning issues-for instance Local Development Frameworks.
- Be involved in development management (planning applications) in exceptional circumstances only, for example in terms of scale and precedence.
- Provide informal planning advice/comments on development control (planning applications) at the request of a Kent Downs AONB Joint Advisory member and /or Local Authority Planning Officer.

The Countryside and Rights of Way Act 2000

The primary legislation relating to AONBs is set out in the Countryside and Rights of Way Act 2000. Section 85 of this Act requires that in exercising any functions in relation to land in an AONB, or so as to affect land in an AONB, relevant authorities, which includes local authorities, shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. This is known as the 'Duty of Regard'. The Duty of Regard can be demonstrated by testing proposals against the policies set out in the Kent Downs AONB Management Plan and its supporting guidance (see below).

Relationship of the AONB Management Plan and Development Management

The CRoW Act requires that a management plan is produced for each AONB, and accordingly the first Kent Downs AONB Management Plan was published in April 2004. The second revision Management Plan (2014-2019) has been formally adopted by all the local authorities of the Kent Downs. The Management Plan may be viewed on the Kent Downs web site. Please let us know if you would like any hard copies.

<https://s3-eu-west-1.amazonaws.com/explore-kent-bucket/uploads/sites/7/2018/04/18113849/KDAONB-Management-Plan.pdf>

Under the CRoW Act, the Management Plan is required to 'formulate the (Local Authority) policies for the management of the AONB and for carrying out their functions in relation to it'. The policies of the Kent Downs AONB Management Plan are therefore the adopted policies of all the Local Authorities in the Kent Downs.

The national Planning Policy Guidance confirms that AONB Management Plans can be a material consideration in planning decisions and this view is confirmed in previous appeal decisions, including APP/U2235/W/15/3131945, Land west of Ham Lane, Lenham, Maidstone,

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where at para 48 of the Inspectorate's decision letter, it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration". The decision can be downloaded at:

<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3131945>

Any Kent Downs AONB Unit response to consultations on planning applications will reflect the policies of the Management Plan along with other Kent Downs AONB produced guidance which help support the delivery of the policies of the Management Plan, as set out below.

Other Kent Downs AONB Guidance

[Kent Downs Landscape Design Handbook](#)

Design guidance based on the 13 landscape character areas in the Kent Downs. Guidance is provided on fencing, hedges, planting, gateways etc. to help the conservation and enhancement of the AONB.

[Kent Downs Renewable Energy Position Statement](#)

Provides a clearly articulated position for the Kent Downs AONB partnership with regards to renewable energy technologies. It recognises that each Local Planning Authority must balance the impact of proposals for renewables on the AONB with all the other material planning considerations.

[Kent Rural Advice Service Farm Diversification Toolkit](#)

Guidance on taking an integrated whole farm approach to farm developments leading to sound diversification projects that benefit the Kent Downs.

[Kent Downs Land Manager's Pack](#)

Detailed guidance on practical land management from how to plant a hedge to creating ponds and enhancing chalk grassland.

[Rural Streets and Lanes - A Design Handbook](#)

Guidance on the management and design of rural lanes and streets that takes the unique character of the Kent Downs into account. This document discusses the principle of shared space and uses examples from around the UK and Europe. The Handbook has been adopted by Kent County Council as policy.

[Managing Land for Horses](#)

A guide to good practice on equine development in the Kent Downs, including grassland management, fencing, trees and hedges, waste management and basic planning information.

[Kent Farmstead Guidance and Kent Downs Farmstead Guidance](#)

Guidance on the conservation, enhancement and development change of heritage farmsteads in the Kent Downs based on English Heritage's Kent and National Character Area Farmstead Statements. Includes an Assessment method and Design Guidance.

[Kent Downs Setting Position Statement](#)

An advisory document providing guidance on issues of setting including the legislative basis for considering setting, identification of where setting is likely to be an issue and provision of advice on how to mitigate potential impacts.

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The NPPF and AONBs

National planning policies are very clear that the highest priority should be given to the conservation and enhancement of Areas of Outstanding Natural Beauty. The NPPF confirms that AONBs are equivalent to National Parks in terms of their landscape quality, scenic beauty and their planning status.

Paragraph 172 of the revised NPPF specifies that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.' It is advised that the scale and extent of development within AONBs should be limited and that major developments should be refused in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. No definition is given as to what constitutes major development within an AONB, however a footnote to this paragraph states that this is 'a matter for the relevant decision taker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.

The thrust of the NPPF as set out in paragraph 11 is that there is a presumption in favour of sustainable development. It specifies that in respect of decision taking, proposals that are in accordance with an up to date development plan should be granted, however where there are no relevant development plan policies, or policies are out of date, permission should be granted unless the application of specific policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development. Footnote 6 to this paragraph specifies that such policies include those relating to AONBs. A Court of Appeal case in June 2017¹ clarified that identification of policies indicated in Footnote 6 (previously footnote 9 to paragraph 14 of the 2012 NPPF), does not shut out the presumption in favour, rather the specific policy or policies have to be applied and planning judgment exercised. In the case of AONBs, this would mean an assessment of the acceptability of the proposal against paragraph 172 of the NPPF.

¹ Barwood Strategic Land II LLP (Appellant) and (1) East Staffordshire Borough Council and (2) Secretary of State for Communities and Local Government (Respondents), on appeal from the Administrative Court Planning Court, [2017] EWCA Civ 893 Case No: C1/2016/4569 [2016] EWHC 2973 (Admin), before: Lord Justice Gross, Lord Justice Underhill and Lord Justice Lindblom, on 25th May 2017.

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APPENDIX 2

**MINUTES OF THE MEETING OF THE PLANNING
COMMITTEE HELD ON 26 SEPTEMBER 2019**

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 26 SEPTEMBER 2019

Present: Councillor English (Chairman) and Councillors Eves, Harwood, Kimmance, McKay, Munford, Round, Spooner, Vizzard and Wilby

Also Present: Councillors J Sams and T Sams

88. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillors Adkinson, Bartlett, Parfitt-Reid and Perry.

89. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor McKay was substituting for Councillor Adkinson.

Councillor McKay indicated that he would be recording the proceedings.

90. **NOTIFICATION OF VISITING MEMBERS**

Councillors J and T Sams indicated their wish to speak on the report of the Head of Planning and Development relating to application 19/502469/FULL (Pilgrims Retreat, Hogbarn Lane, Harrietsham, Kent).

It was noted that Councillors J and T Sams lived next to the application site. They did not believe that they had Other Significant Interests in the application, but, for transparency, they would speak on the application and then leave the meeting.

91. **ITEMS WITHDRAWN FROM THE AGENDA**

There were none.

92. **URGENT ITEMS**

The Chairman said that, in his opinion, the update reports of the Head of Planning and Development should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

93. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Harwood said that, with regard to the report of the Head of Planning and Development relating to application 19/502829/FULL (Vinters Park Crematorium, Bearsted Road, Weaving, Kent), he was a Member of Boxley Parish Council. However, he had not participated in the Parish Council's discussions regarding the proposed improvements to the Crematorium and intended to speak and vote when the application was discussed.

94. EXEMPT ITEMS

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

95. MINUTES OF THE MEETING HELD ON 22 AUGUST 2019

RESOLVED: That the Minutes of the meeting held on 22 August 2019 be approved as a correct record and signed.

96. PRESENTATION OF PETITIONS

There were no petitions.

97. DEFERRED ITEMS

19/500271/FULL - CHANGE OF USE OF LAND FOR THE STATIONING OF 20 HOLIDAY CARAVANS WITH ASSOCIATED WORKS INCLUDING LAYING OF HARDSTANDING AND BIN STORE - OAKHURST, STILEBRIDGE LANE, MARDEN, TONBRIDGE, KENT

The Development Manager said that additional information had been received which would be put out to consultation. He hoped to be in a position to report the application back to the Committee in the near future.

19/500200/FULL - RETROSPECTIVE APPLICATION FOR A CHANGE OF USE OF LAND AS A GYPSY/TRAVELLER CARAVAN SITE CONSISTING OF ONE PITCH - LITTLE PADDOCKS, STILEBRIDGE LANE, LINTON, KENT

17/504568/FULL - DEMOLITION OF THE REMAINING FORMER LIBRARY BUILDING, ERECTION OF A SIX-TO-SIXTEEN STOREY RESIDENTIAL DEVELOPMENT OF 170 NO. APARTMENTS AND 85 NO. CAR PARKING SPACES AT THE FORMER KCC SPRINGFIELD LIBRARY SITE, SANDLING ROAD, MAIDSTONE - FORMER KCC SPRINGFIELD LIBRARY HQ, SANDLING ROAD, MAIDSTONE, KENT

The Development Manager said that he had nothing further to report in respect of these applications at present.

98. 19/500667/SUB, 19/502295/SUB & 19/504223/SUB - LAND SOUTH OF FORSTAL LANE, COXHEATH, KENT

19/500667/SUB - Submission of details pursuant to Condition 8 (Surface Water Drainage Details), Condition 9 (Implementation of Sustainable Drainage), Condition 12 (Lighting Scheme) and Condition 22 (Footpath and PROW) for planning permission 17/502072/OUT (for 210 dwellings).

19/502295/SUB - Submission of details pursuant to Condition 3: Joinery Details (original application ref: 18/505417/REM - Reserved Matters for 210 dwellings).

19/504223/SUB - Submission of Details to Discharge Condition 6 (Lighting) (original application ref: 18/505417/REM - Reserved Matters for 210 dwellings).

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

Applications 19/500667/SUB and 19/502295/SUB

RESOLVED: That the submitted details be approved with the respective informatives set out in the report as amended by the urgent update report.

Application 19/504223/SUB

RESOLVED: That the submitted details be approved with the informatives set out in the report.

Voting: 10 – For 0 – Against 0 – Abstentions

99. 19/502829/FULL - ADAPTATION OF EXISTING SPACE TO HOUSE COLD STORAGE FACILITIES WITH NEW LINK EXTENSION TO MAIN BUILDING AND CREATION OF NEW OPENING TO THE EAST ELEVATION AND INSTALLATION OF 1 NO. AIR CONDITIONING UNIT - VINTERS PARK CREMATORIUM, BEARSTED ROAD, WEAVERING, KENT

The Committee considered the report of the Head of Planning and Development.

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

Voting: 10 – For 0 – Against 0 – Abstentions

100. 19/504088/FULL - DEMOLITION OF EXISTING GARAGE. ERECTION OF TWO STOREY SIDE EXTENSION - 71 ROSELEIGH AVENUE, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report and an additional condition requiring the incorporation of integrated niches for wildlife (at least one bat brick and one swift brick).
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional condition and to amend any other conditions as a consequence.

Voting: 10 – For 0 – Against 0 – Abstentions

101. 19/504494/NMAMD - NON MATERIAL AMENDMENT FOR REMOVAL OF 4 NO. KITCHEN WINDOWS ON ELEVATION 5 (WEST ELEVATION) OF BLOCK 1. THE SURROUNDING RECESSED PANELS WILL ALSO BE REMOVED AND WILL BE REPLACED WITH A PROJECTING BRICKWORK DETAIL TO MAINTAIN VISUAL INTEREST SUBJECT TO 17/504428/FULL - MAIDSTONE BOROUGH COUNCIL CAR PARK, CORNER OF UNION STREET, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

RESOLVED: That permission be granted with the informative set out in the report.

Voting: 9 – For 1 – Against 0 – Abstentions

102. 19/502469/FULL - RETROSPECTIVE APPLICATION (IN PART) FOR THE CHANGE OF USE OF LAND FROM A MIXED USE OF HOLIDAY UNITS (180 CARAVANS) AND RESIDENTIAL (18 CARAVANS) TO A RESIDENTIAL PARK HOME SITE (FOR FULL-TIME RESIDENTIAL OCCUPATION) COMPRISING THE STATIONING OF 248 CARAVANS, INCLUDING ENGINEERING WORKS TO CREATE TERRACING, HARDSTANDING, RETAINING WALLS, AND THE EXTENSION OF THE SITE ALONG THE SOUTH EASTERN BOUNDARY - PILGRIMS RETREAT, HOGBARN LANE, HARRIETSHAM, KENT

All Members except Councillors Harwood, McKay and Round stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

In presenting the application the Development Manager advised the Committee that he wished to add a further policy ground (DM21) to recommended reason for refusal no.4 and a further policy ground (DM20) to recommended reason for refusal no.6.

Councillor Powell of Harrietsham Parish Council, Mr Cussen, for the applicant, and Councillors T and J Sams (Visiting Members) addressed the meeting.

Having made representations, Councillor T and J Sams left the meeting.

RESOLVED: That permission be refused for the reasons set out in the report as amended by the Development Manager during his presentation on the application.

Voting: 7 - For 0 - Against 3 - Abstentions

103. 19/502525/FULL - CHANGE OF USE AND CONVERSION, EXTENSION (TO INCLUDE CONSTRUCTION OF A FIRST FLOOR EXTENSION, LOFT CONVERSION TO HABITABLE SPACE WITH ALTERATIONS TO THE ROOF LINE) AND ALTERATION OF EXISTING BUILDING IN ORDER TO CREATE A HOUSE OF MULTIPLE OCCUPANCY (SUI GENERIS) COMPRISING 10 UNITS, TOGETHER WITH ASSOCIATED PARKING AND LANDSCAPING - 1 REGINALD ROAD, MAIDSTONE, KENT

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

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

Voting: 9 - For 0 - Against 0 - Abstentions

Note: Since Councillor McKay was not present at the start of this item, he did not participate in the discussion or the voting.

104. 19/503481/FULL - CONVERSION AND CHANGE OF USE OF AGRICULTURAL BARN TO RESIDENTIAL DWELLING TOGETHER WITH FIRST FLOOR EXTENSION TO LEAN-TO, ASSOCIATED PARKING AND RESIDENTIAL GARDEN (RE-SUBMISSION OF 18/504895/FULL) - AGRICULTURAL BARN, LITTLE GRIGGS FARM BARNS, GRIGG LANE, HEADCORN, KENT

Councillor Round stated that he had been lobbied.

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

RESOLVED:

1. That permission be granted subject to the conditions and informatives set out in the report, as amended by the urgent update

report, and the additional condition set out in the urgent update report, with:

- (a) The amendment of condition 8 (Landscaping) to specify that the landscaping scheme shall be designed in accordance with the principles of the Council's landscape character guidance; and
 - (b) Additional informatives to give a clear indication of what the Committee is seeking to achieve in relation to materials (dark timber weatherboarding) and landscaping (better site enclosure and specimen trees such as English Oaks).
2. That the Head of Planning and Development be given delegated powers to finalise the wording of amended condition 8 and the additional informatives and to amend any other conditions as a consequence.

Voting: 9 – For 0 – Against 1 – Abstention

105. 19/501105/FULL - SITING OF TWO ADDITIONAL MOBILE UNITS, WITH ASSOCIATED ACCESS AND LANDSCAPING WORKS - WHITEACRES, MARDEN ROAD, STAPLEHURST, TONBRIDGE, KENT

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

In presenting the report, the Development Manager advised the Committee that he wished to amend the recommendation set out in the urgent update report to read:

That subject to the expiry of the 21 day notice period and no new planning issues being raised which have not previously been considered in the report, the Head of Planning and Development be given delegated powers to grant permission subject to the conditions and informatives set out in the report as amended by the urgent update report.

Councillor Riordan of Staplehurst Parish Council and Mr Collins, for the applicant, addressed the meeting.

RESOLVED:

1. That subject to the expiry of the 21 day notice period and no new planning issues being raised which have not previously been considered in the report, the Head of Planning and Development be given delegated powers to grant permission subject to the conditions and informatives set out in the report, as amended by the urgent update report, with:
 - (a) The amendment of condition 7 (Landscaping Renewal Period) to specify that any trees or plants within the approved landscape scheme, which, within a period of **10** (not 5) years from the completion of the development die, are removed, or become

seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. The reason for the longer period being to balance the intensification of use of the site by strengthening landscaping particularly adjacent to the access track where visibility from the public highway is greatest.

(b) An additional informative advising the applicant that the proposed hedgerows should incorporate specimen hedgerow trees which should be Wild Service.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of amended condition 7 and the additional informative and to amend any other conditions as a consequence.

Voting: 9 – For 0 – Against 1 – Abstention

106. 19/502875/TPOA - TREE PRESERVATION ORDER APPLICATION TO T1 LIME: LIFT TO 5M OVER PROPERTY TO GIVE CLEARANCE - 6 CALEHILL CLOSE, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

RESOLVED: That permission be granted subject to the condition and informative set out in the report with an additional condition requiring that the arisings from the crown lifting works be retained on site in the interests of wildlife.

Voting: 10 - For 0 – Against 0 – Abstentions

107. 19/503752/TPOA - TREE PRESERVATION ORDER APPLICATION - T1 BEECH: REDUCE RADIAL SPREAD FROM 3.5M TO 2.5M; T2 OAK: REDUCE RADIAL SPREAD FROM 4M TO 2.5M - LAND NEXT TO 8 WESTMINSTER SQUARE, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

RESOLVED: That permission be granted subject to the condition and informative set out in the report.

Voting: 10 – For 0 – Against 0 - Abstentions

During the discussion on this application, the Chairman said that he would raise with the Vice-Chairman and Political Group Spokespersons of the Planning Committee the possibility of requiring the installation of bat boxes to compensate for the loss of habitat as a result of tree surgery works.

108. APPEAL DECISIONS

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

RESOLVED: That the report be noted.

109. DURATION OF MEETING

6.00 p.m. to 8.50 p.m.

APPENDIX 3

REFUSAL NOTICE DATED 27 SEPTEMBER 2019



Sines Parks Luxury Living Limited
C/O Pegasus Group
F.A.O Mrs Krishna Mistry
Pavilion Court
Green Lane
Garforth
Leeds
LS25 2AF

27 September 2019

PLANNING DECISION NOTICE

APPLICANT:	Sines Parks Luxury Living Limited
DEVELOPMENT TYPE:	Large Major Other
APPLICATION REFERENCE:	19/502469/FULL
PROPOSAL:	Retrospective application (in part) for the change of use of land from a mixed use of holiday units (180 caravans) and residential (18 caravans) to a residential park home site (for full-time residential occupation) comprising the stationing of 248 caravans, including engineering works to create terracing, hardstanding, retaining walls, and the extension of the site along the south eastern boundary. This is as shown on drawing references: 24105se-01; 02; 03; 04; 05; 06; and 07; P18-2071-004B; 005C; 006C; 007B; 010; 011; Planning and Design and Access Statement; Transport Technical Note; Travel Plan; Transport Statement; FRA and Drainage Strategy (Aug 2019); Landscape and Visual Assessment; Arboricultural Impact Assessment; and Preliminary Ecological Appraisal.
ADDRESS:	Pilgrims Retreat Hogbarn Lane Harrietsham ME17 1NZ

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

- (1) The development, by virtue of the site's extension and the level of engineering works undertaken to create terracing, hardstanding, and retaining walls within the southern section of the site; the loss (and further potential loss) of woodland and protected trees; the inadequate and inappropriate mitigation planting proposed; the addition of 50 more static caravans; and the increased light pollution resulting from more static caravans that

MKPS – Working in Partnership with: Maidstone Borough Council

Please Note: All planning related correspondence for MBC should be sent to:

Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ

Email: planningsupport@midkent.gov.uk

Access planning services online at: www.maidstone.gov.uk; or submit an application via www.planningportal.gov.uk

are occupied permanently, fails to conserve and enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, as well as the intrinsic character and beauty of the countryside hereabouts. The adverse impact upon this nationally designated landscape of the highest value is contrary to policies SS1, SP17, DM1, DM3 and DM30 of the Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment (March 2012 amended July 2013) and 2012 Supplement; the National Planning Policy Framework; and the Kent Downs AONB Management Plan (2014-19) and its Landscape Design Handbook.

- (2) The development is considered to be a major development in the Kent Downs Area of Outstanding Natural Beauty, and there are no exceptional circumstances to permit this development, and it has not been demonstrated that the development is in the public interest. The development is therefore contrary to paragraph 172 of the National Planning Policy Framework.
- (3) The development would authorise 230 residential units in an isolated location that would also have poor access to public transport and be remote from local services and facilities, resulting in occupants being reliant on the private motor vehicle to travel to settlements to access day to day needs. In the absence of any overriding justification or need for the development demonstrated in the application, this is contrary to the aims of sustainable development as set out in policies SS1, SP17 and DM1 of the Maidstone Local Plan (2017) and the National Planning Policy Framework (2019).
- (4) The application has failed to demonstrate that the residual cumulative vehicle movements associated to 230 new residential homes on this site would not have a severe impact on the local road network. This is contrary to policies DM1, DM21, and DM30 of the Maidstone Local Plan (2017) and the National Planning Policy Framework (2019).
- (5) The application has failed to demonstrate that the site can provide adequate provisions for foul and surface water disposal for 248 residential units, posing a health and safety risk to the occupants of the site. This is contrary to Local Plan policy ID1, and the National Planning Policy Framework (2019).
- (6) In the absence of an appropriate legal mechanism to secure necessary contributions towards community infrastructure in the borough, the impact of the development would place unacceptable demands on local services and facilities. This would be contrary to Local Plan policies SS1, ID1, DM19, and DM20 of the Maidstone Local Plan (2017); and the National Planning Policy Framework (2019).
- (7) In the absence of an appropriate legal mechanism to secure affordable housing provision, the development would fail to contribute to the proven significant need for affordable housing in the borough. This would be contrary to Local Plan policies SS1, SP20, and ID1 of the Maidstone Local Plan (2017); and the National Planning Policy Framework (2019).

The Council's approach to this application:

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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

It is noted that the applicant/agent did not engage in any formal pre-application discussions.

R. L. Jarman

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

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

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

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

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990. **Please see “Development Type” on page 1 of the decision notice to identify which type of appeal is relevant.**

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

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

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

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

Agenda Item 20



19/505949/FULL Land To The Back of Cherry Orchard

Scale: 1:2500

Printed on: 19/2/2020 at 10:53 AM by SummerF



REFERENCE NO: 19/505949/FULL		
APPLICATION: Amendments to planning application 17/504038 (Change of use of land for keeping of horses and stable block) to include repositioning of stable building and waste pile; laying of Type 1 hardcore; and sand school (Section 73A application).		
ADDRESS: Land to back of Cherry Orchard Court Lodge Farm The Street Boxley ME14 3DX		
RECOMMENDATION: GRANT planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: It has been established the development would not result in unacceptable harm to the character and appearance of the countryside hereabouts that falls within the Kent Downs AONB; and there are no objections to the development in terms of residential amenity, highway safety, environmental health, and heritage. The development is therefore acceptable with regard to the relevant provisions of the Development Plan and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Boxley Parish Council wish to see application reported to Planning Committee if case officer is minded to recommend approval.		
WARD: Boxley	PARISH COUNCIL: Boxley	APPLICANT: Mr L. Lundie AGENT: DKM Consultants Ltd
TARGET DECISION DATE: 02.03.20		PUBLICITY EXPIRY DATE: 07/02/20

Relevant planning history

- 17/504038/FULL - Change of use for keeping of horses and erection of stable block (2 stables and 1 storage hay barn), hardstanding in front of stable block – Approved
- 19/500162/FULL - Erection of dwelling – Refused and dismissed at appeal

MAIN REPORT

1.0 Site description

1.01 The application site is located to the east of Boxley village, adjacent to a Grade II listed property known as The Pump House. A public footpath (KH14) runs along the northern edge of the site, in a general east/west direction; and a public footpath (KH15), runs along the eastern boundary of The Pump House in a general north/south direction. For the purposes of the Local Plan the application site falls within the Kent Downs Area of Outstanding Natural Beauty. The site is accessed via a private track from Boxley village.

2.0 Development description

2.01 Under 17/504038 planning permission was granted for the change of use of the land for the private keeping of horses and for the erection of a stable block and associated hardsurfacing. There are discrepancies in what has been built on the site and the approved plans. In summary:

- Stable building and waste are in different location
- Waste area is in different location
- No concrete has been laid but instead Type 1 hardcore (part grass seeded)
- Stable building has a type of plastic corrugated roof instead of metal
- External lighting has been installed on the stable building
- Sand school has been created

2.02 This application has been submitted to regularise these differences and is being treated as an application under 73A of the Town and Country Planning Act 1990 (i.e. to consider the development as carried out on site). The applicant has also confirmed that the waste is collected generally every 6 months (and not every month as stipulated in condition 6 of 17/504038); and the outer boundaries of the site have been planted with a mix of Laurel, Hawthorn, and Hornbeam (as shown on the submitted plans). It should be noted that 17/504038 was considered under the 2000 Maidstone Borough-Wide Local Plan and the then emerging Local Plan that is now adopted.

3.0 Policy and other considerations

Maidstone Local Plan (2017): SP17, SP18, DM1, DM4, DM8, DM30, DM41
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Kent Downs AONB Management Plan (2014-2019)

4.0 Local representations

4.01 Representations have been received from 4 local residents raising the following (summarised) issues:

- *Visual impact of proposal on countryside and AONB*
- *Impact upon setting of listed buildings*
- *Overdevelopment/commercialisation of site*
- *Impact of external lighting*
- *Impact upon residential amenity*
- *Errors in application*
- *Existing development is not in accordance with previous planning approval*

5.0 Consultations

(Please note summaries of consultation responses are set out below, with responses discussed in more detail in main report where considered necessary)

5.01 **Boxley Parish Council:** Wish application to be reported to Planning Committee if minded to recommend approval for following (summarised) reasons:

- *Development is harmful to distinctive character and appearance of countryside and AONB and does not conserve or enhance scenic beauty of AONB*
- *Development is overdevelopment and commercialisation of site*
- *Impact upon setting of listed buildings*
- *Sand school surfacing is shredded carpet which blows fine fibres causing a nuisance*
- *Existing development is not in accordance with previous planning approval and external lighting has been installed*

5.02 After further consultation Boxley Parish Council made the following (summarised) comments: Siting of muck heap is closer to neighbouring property, if removed every 6 months it will encourage rats and flies. Sand school surfacing results in fibres being blown around.

5.03 **Conservation Officer:** Raises no objection.

5.04 **KCC Highways:** Raises no objection.

5.05 **Environmental Protection Team:** Raise no objection.

5.06 **Kent Downs AONB Unit:** No representations received.

5.07 **KCC Archaeological Officer:** No representations received.

6.0 APPRAISAL

Main issues

Maidstone Local Plan

6.01 The development is subject to the normal constraints of development in the countryside as designated under the Maidstone Local Plan, in that it should not be permitted unless (inter alia) it accords with other policies in the Local Plan, and would not result in unacceptable harm to the character and appearance of the area, and will respect the amenities of occupiers of neighbouring properties. Development should maintain, or where possible, enhance the local distinctiveness of an area; it should seek to ensure that development affecting heritage assets conserves and where possible enhances the significance of the heritage asset, and where appropriate its setting; and as an exception to the general themes of

constraint in the countryside, Local Plan policy DM41 allows for equestrian development in the countryside subject to certain criteria.

- 6.02 The development site is within the AONB and the statutory duty of the local planning authority requires any proposal to have regard for the purpose of conserving and enhancing the natural beauty of this nationally important designation; and great weight should be given to the conservation and enhancement of the Kent Downs AONB.

National Planning policy Framework

- 6.03 The NPPF is also clear that good design is a key aspect of sustainable development; and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 170 of the NPPF also states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Paragraph 172 of the NPPF also states the following:

Great weight should be given to conserving & enhancing landscape & scenic beauty in AONBs, which have highest status of protection in relation to these issues. Conservation and enhancement of wildlife & cultural heritage are also important considerations in these areas. Scale & extent of development in these designated areas should be limited.

- 6.04 As set out in the NPPG, it is clear that the scale and extent of development in an AONB should be limited, in view of the importance of conserving and enhancing its landscape and scenic beauty. All development in the AONB needs to be located and designed in a way that reflects its status as a landscape of the highest quality.
- 6.05 For the purposes of paragraph 172 of the NPPF, planning judgment has taken into account all of the circumstances of the application (in light of its nature, scale and setting) and the site's local context, and this proposal is not considered to be a 'major development', which is to be given its ordinary meaning, as established in *High Court judgement Aston v SoS for Communities and Local Government [2013] EWHC 1936 [Admin]*.

Other relevant matters

- 6.06 Section 85 of the Countryside and Rights of Way Act 2000 places an explicit duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to or so as to affect land in an AONB: *85(1): In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*
- 6.07 The Kent Downs AONB Management Plan does not form part of the statutory Development Plan, but the Council has adopted it and it is a material consideration when assessing any planning application. The AONB Management Plan helps to set out the strategic context for development; it provides evidence of the value and special qualities of this area; it provides a basis for cross-organisational work to support the purposes of its designation; and it details how management activities contributes to its protection, enhancement and enjoyment. In short, its policies seek to conserve and enhance the natural beauty and distinctiveness of the AONB, which is recognised as the primary purpose of designation; and development or changes to land use will be opposed where they disregard or run counter to the primary purpose of Kent Downs AONB.
- 6.08 It is a material planning consideration that the site does benefit from an extant permission for the use of the land for the keeping of horses and for the erection of stables and hardstanding (17/504038). Whilst this permission has not been implemented correctly, the applicant could still revert back to what was approved.

Therefore, the main issue for this application is whether or not the submitted details are significantly more harmful in planning terms than the previous approval that could still be rectified on the site.

Visual impact

- 6.09 This application should be tested against the purpose of the AONB designation, which is to conserve and enhance its natural beauty (in accordance with Local Plan policy and the NPPF). The stables on site, in terms of scale and design, are the same as previously approved. The only differences are the change in roof material and its location. The stables are still sited close to the southern boundary of the site, albeit modestly shifted eastwards; and the roof is now of bitumen roof sheeting. The changed roof material is considered unobjectionable, and the stable building is still of a low key and traditional design that is set back and largely screened from any public vantage point. The external lighting on the stables is also not objectionable in amenity terms and a suitable condition will be imposed to ensure that no other external lighting is placed on the site.
- 6.10 The level of hardstanding on the site is not significantly different to what was shown on the previously approved plans; and the location of the manure heap, that is a modest area enclosed by sleepers, is not considered to be visually intrusive. The site also benefits from recent hedge planting along the outer boundaries, and in time this will help further screen the site from public view. This planting is a mix of Laurel, Hawthorn, and Hornbeam (as shown on the submitted plans). The sand school is grouped close to the stables and site entrance, and it is enclosed by traditional and low-level timber post and rail fencing. The sand school, given its low key nature and its separation distance from any public vantage point, would not appear visually harmful or incongruous in this countryside location.
- 6.11 It remains that the site is for the personal use of the applicant; the alterations made to the previously approved scheme are not now considered to be overdevelopment of the site; the development is low key and appropriate for its rural location, retaining an open feel; and it does not appear visually intrusive or dominant from any public vantage point. With everything considered, the proposal would not weaken the characteristics and qualities of the AONB hereabouts, but rather conserve and enhance its character and appearance in accordance with Local Plan policy and the NPPF.

Residential amenity

- 6.12 The closest dwelling to the application site is The Pump House. As accepted under 17/504038, the domestic keeping of horses on the site does not result in an unacceptable impact upon the living conditions of this neighbour. The shift in the stable building's location; the level of external lighting; and the relocation of the manure pile are considered to be modest alterations to what has been previously approved on the site; and the Environmental Protection Team has also raised no specific objection to the location of the manure heap, or to the surfacing of the sand school (which is not an uncommon choice providing low maintenance), in residential amenity terms. The sand school does allow for a greater intensity of use of the site, particularly through the winter months. However, the site is to be used by the applicant only and not as a commercial enterprise, where the scale and frequency of use would be significantly greater; the sand school is to the front of the site, away from the private amenity space of the occupants of The Pump House; and a condition will be imposed to ensure no external lighting for the sand school can be installed. It is therefore considered that the development would not have an adverse impact upon the residential amenity of the occupants of The Pump House, including in terms of general noise and disturbance, odours and fibres. The occupants of no other residential property would be adversely impacted upon by this development.

Other matters

- 6.13 Issue has been made over when the manure heap is collected/disposed of. The applicant has confirmed that the manure heap is on an impermeable base; and that it is usually collected every 6 months. The Environmental Protection Team states that the manure heap should indeed have an impermeable base, and furthermore for best practice it should be covered to avoid rain water causing potential run off and odour issues. The Environmental Protection Team also comment that the waste manure collection should be more frequently, as overflow could potentially cause run-off issues entering ground or surface waters. To ensure adequate drainage arrangements across the site, and to prevent the risk of polluting run-off entering either ground or surface waters, it is considered reasonable to impose a condition requesting further details on this issue. For reference, the Environmental Protection Team recommends that the waste is collected at least once every 2 months, depending on how much is produced.
- 6.14 The Conservation Officer considers the development to have a minimal impact on any near-by listed building, conservation area, or non-designated heritage asset, and so it does not result in any meaningful harm to their setting and significance. As such, no objection to the development is raised on heritage grounds.
- 6.15 The Highways Authority has commented that the track serving the development should be improved, however, it has been made very clear that this is not grounds for a highway safety objection and no recommendation for refusal has been made.
- 6.16 There is considered to be adequate provision made for the safety and comfort of horses in terms of the size of accommodation and the land for grazing and exercising; the site is in the countryside with easy access to bridleways etc; and there are less than 10 stables, so adequate provision for the security of the site in terms of the location of the proposed development in relation to the owner of the animals is not relevant here.
- 6.17 No representations have been made by the Kent Downs AONB Unit or the Archaeological Officer, and so it is assumed that no objection is raised to the development. The representations made by Boxley Parish Council and local residents have been considered in the assessment of this application.
- 6.18 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application would not undermine objectives of the Duty.
- 6.19 In accordance with national planning policy the issue of intentional unauthorised development has been a material consideration in the determination of this retrospective application. This does weigh against the development, but is not considered reason to refuse the development in this instance. This application is not considered to be EIA development.

Conclusion

- 6.20 It is a material planning consideration that the site benefits from an extant permission for the use of the land for the keeping of horses and for the erection of stables and hardstanding. Whilst this permission has not been implemented correctly, the applicant could still revert back to what was approved. From this starting point, it has been demonstrated that the development would not weaken the characteristics and qualities of the AONB hereabouts, but rather conserve and enhance its natural beauty; and there are no objections to the development in terms of residential amenity, highway safety, environmental health, and heritage. The development is therefore acceptable with regard to the relevant provisions of

the Development Plan and all other material considerations such as are relevant. A recommendation of approval is therefore made on this basis.

7.0 RECOMMENDATION: GRANT planning permission subject to following conditions:

CONDITIONS

1. The external materials to be used for the stable building hereby approved shall be as indicated on the approved plans and shall be maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development.

2. The landscaping scheme shall be carried out in accordance with the details as shown on drawing reference: DKM/7825/01 Rev 04. Any planting which fails to establish or any trees or plants which, within five years from the first use of the building, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

Reason: To ensure a satisfactory appearance to the development.

3. Within 2 months from the date of this decision notice, a scheme for the disposal of run-off from the stables (inc. washings), hardstanding, and manure heap, shall be submitted to the local planning authority for approval. Details shall include when the manure heap will be emptied; how the manure heap will be covered; and that the manure heap will be retained on an impermeable base at all times.

Reason: To ensure adequate drainage arrangements and to prevent the risk of polluting run-off entering either ground or surface waters.

4. Except for what is detailed in the submission, no external lighting, whether temporary or permanent, shall be placed or erected within the site at any time.

Reason: In the interest of residential amenity and to protect the amenity of the countryside.

5. The development hereby permitted shall only be used for the private stabling of horses and the storage of associated equipment and feed and shall at no time be used for any business or commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides.

Reason: In the interests of residential amenity and to prevent the introduction of a commercial use onto the site.

6. No manure or waste materials shall be burned on the land within application site.

Reason: In the interests of residential amenity.

7. The development hereby permitted shall be carried out in accordance with the following approved details: 4869 01; DKM/7825/01 Rev 04; and DKM/7343/02 Rev 01; 10 Rev 0; 11 Rev 0; 12 Rev 0; 13 Rev 0; and 14 Rev 0.

Reason: For the avoidance of doubt.

INFORMATIVES

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and

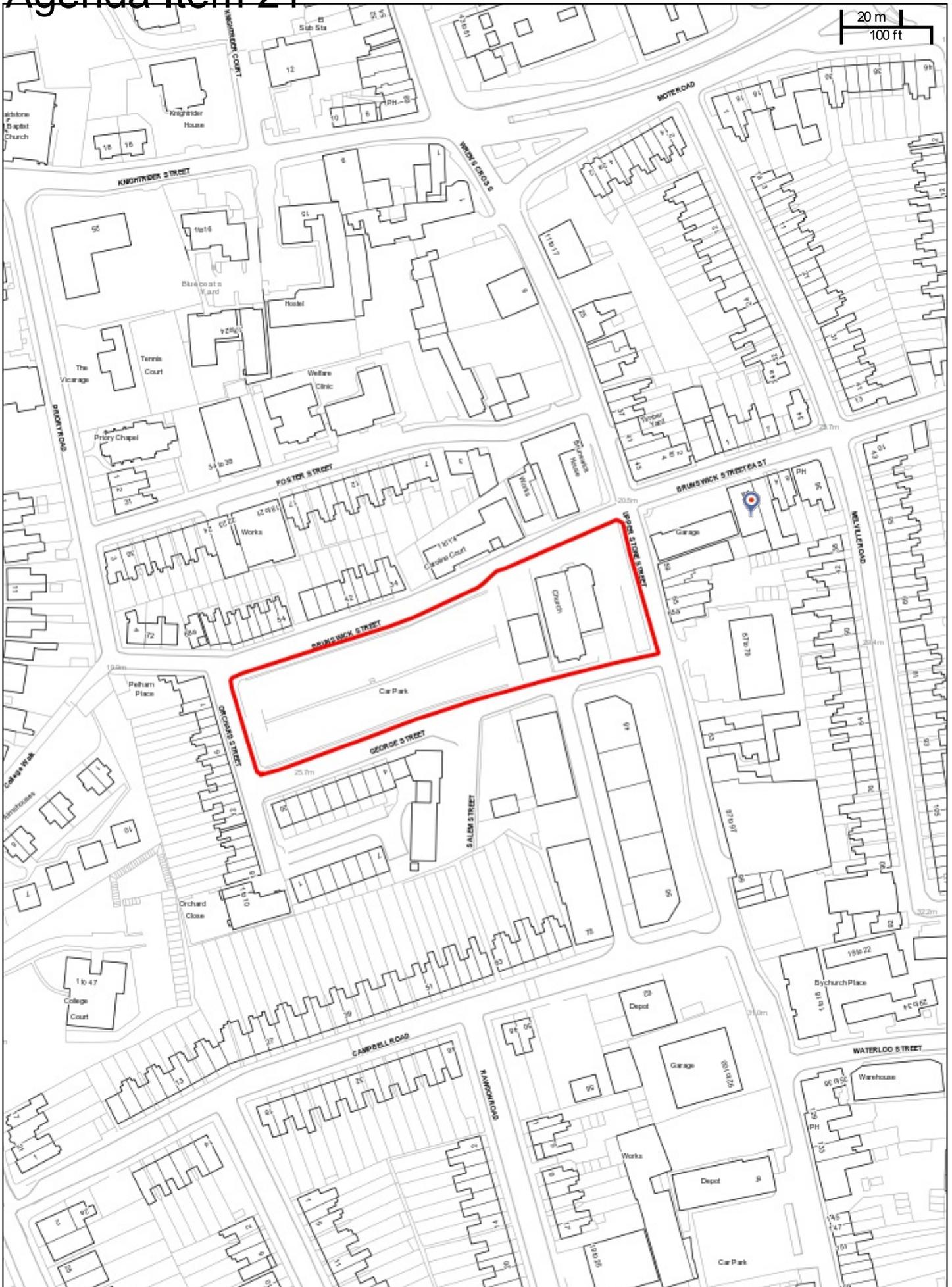
gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. 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>

2. Manure should be stored at least 10m away from any watercourse and sited in accordance with the Code of Good Agricultural Practice for the protection of Waters in order that there is no risk of polluting run-off entering either ground or surface waters and causing pollution. It should be noted that any containers for the storage of animal waste should be sheeted to prevent nuisance from odour and/or flies. In addition, waste should be accumulated for a minimal time only before disposal and should be stored at a location on site which will minimise the likelihood of nuisance being caused to neighbours.

Case Officer: Kathryn Altieri

Agenda Item 21



19/504613/NMAMD Land At Brunwick Street

Scale: 1:1750

Printed on: 19/2/2020 at 11:24 AM by SummerF

REFERENCE NO - 19/504613/NMAMD		
APPLICATION PROPOSAL Non-material amendment: The necessary inclusion of external steps to provide an emergency exit point from the semi-basement carpark of Block 1 (original application reference: 17/504632/FULL).		
ADDRESS Land At Brunswick Street, Maidstone, Kent		
RECOMMENDATION - Approve		
SUMMARY OF REASONS FOR RECOMMENDATION There would be no adverse effect on design or amenity. The change as proposed is considered to be an acceptable non-material alteration to the approved scheme.		
REASON FOR REFERRAL TO COMMITTEE Maidstone Borough Council was the applicant on the original application under planning application reference 17/504632/FULL		
WARD High Street	PARISH/TOWN COUNCIL	APPLICANT Kevin Crew AGENT Mr Darren Bland
TARGET DECISION DATE 14/10/19		PUBLICITY EXPIRY DATE

Relevant Planning History

17/504632/FULL - Proposed demolition of all existing buildings and introduction of a new 33 space public car park, together with residential development. Approved - 07.03.2018

18/504496/SUB - Submission of details pursuant to condition 19 – Boundary Treatment Plan – Approved - 05/07/2019

MAIN REPORT

1 DESCRIPTION OF SITE

- 1.01 The redevelopment of the site to provide a public car park and residential development was approved in 2018 and is currently under construction.
- 1.02 The application site lies in the urban area of Maidstone to the west of Upper Stone Street, on the junction with Brunswick Street and George Street.

2. PROPOSAL

- 2.01 The proposal is a non-material alteration to the approved western elevation of block 1. The external elevation is altered to include the provision of an emergency exit door from the basement car park with stairs to be provided up to the public car park to provide an emergency egress. Boundary treatments to George Street adjacent to the exit would remain as approved, with a dwarf wall and metal railing up to a height of 1.1m.

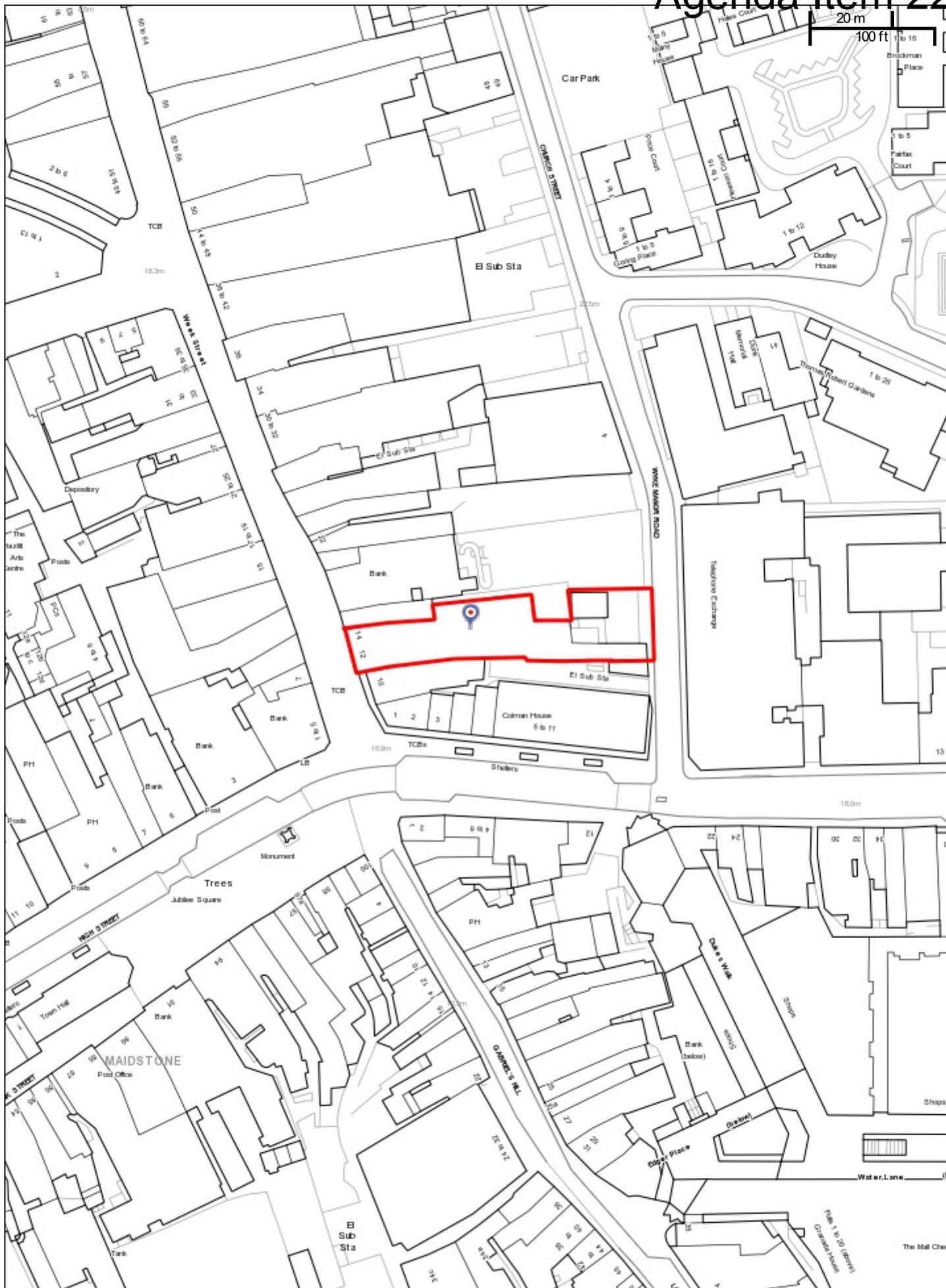
Maidstone Borough Local Plan 2017: DM1 – Principles of Good Design

- 4.01 As an application under Section 96A of the Town and Country Planning Act 1990, this is not an application for planning permission. Therefore, provisions such as neighbour notification do not apply.
- 5.01 Section 96a of the Town and Country Planning Act 1990 allows applications for non-material changes to planning permissions.
- 5.02 The visual change proposed is the insertion of a double fire escape door to the rear western elevation of block 1. The doors would be set down from the ground level of George Street, with an escape stair case to provide emergency egress from the public car park onto George Street. The door would match the style and materials as the existing openings along the car park elevations of block 1. It is considered that this amendment is minor in the context of the scheme as a whole. The amendment would not result in a materially different appearance and the use of the same material as approved on existing openings would ensure that is in keeping with the approved design of the block.
- 5.03 The non-material amendment is considered to be in accordance with Policy DM1 (Principles of Good Design) of the Local Plan which requires a high standard of design. The amendment would not impact on the amenity of occupiers of neighbouring properties.
- 6.01 The proposed alteration would not result in any effect on design or amenity. The change as proposed is considered to be an acceptable non-material alteration to the approved scheme.

RECOMMENDATION - Approve

INFORMATIVES

- (1) The decision was based on the following plans:
A(0)103 Rev C – Proposed Ground Site Plan
A(1)300 Rev E – Elevations Block 1 Sheet 1
Case Officer: Adam Reynolds



19/505518/FULL 12-14 Week Street

Scale: 1:1250

Printed on: 19/2/2020 at 11:15 AM by SummerF

REFERENCE NO - 19/505518		
APPLICATION PROPOSAL		
Demolition of existing buildings and redevelopment of the site for a 132-room hotel (Use Class C1) including rooftop restaurant and bar (Use Class A3/A4) and ancillary refuse and recycling storage, cycle parking, servicing arrangements and hard and soft landscaping.		
ADDRESS 12-14 Week Street, Maidstone, Kent, ME14 1RN		
RECOMMENDATION – APPROVE WITH CONDITIONS		
SUMMARY OF REASONS FOR RECOMMENDATION		
<ul style="list-style-type: none"> • The development is considered to be well designed and would provide a high quality building that would enhance the character and appearance of the Town Centre and local area in accordance with policies SP4 and DM1 of the Local Plan. • The proposals would regenerate a central Town Centre site with a high quality building, bring substantial economic benefits, and an increased diversity of town centre uses helping to achieve the aims of policy SP4 of the Local Plan and the 'Town Centre Vision' within the Local Plan. • The development would result in a low level of 'less than substantial' harm to the Maidstone Centre Conservation Area but this harm is outweighed by the public benefits associated with the economic and environmental benefits of the development in accordance with policy DM4 of the Local Plan and the NPPF. • The loss of a retail unit on Week Street and thus conflict with policy DM27 is outweighed by the economic and environmental benefits of the overall development. • Any other impacts from the development are either acceptable or can be mitigated. • Permission is therefore recommended subject to conditions. 		
REASON FOR REFERRAL TO COMMITTEE		
The Head of Planning & Development requires that the application is considered by Planning Committee in view of the large scale of the development in the Town Centre.		
WARD High Street	PARISH COUNCIL N/A	APPLICANT Assetrock Maidstone Ltd AGENT Avison Young
DECISION DUE DATE: 13/03/20	PUBLICITY EXPIRY DATE: 30/12/19	SITE VISIT DATE: December 2019, January and February 2020
PLANNING HISTORY		

Various applications relating to works, shopfronts and advertisements in connection with the retail unit, and applications for various buildings at the site.

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located at the south end of Week Street and bounds Week Street to the west and Wyke Manor Road to the east. On the Week Street side it includes the former 'Mothercare' store which has a two storey shop frontage which lowers to the rear and covers most of the site. On the Wyke Manor Road side are a number of single and two storey buildings and a service access. To the south of the site is the 'Metrobank' building on Week Street and the 11/12 storey 'Colman House' office building. To the west and north are three storey retail buildings on Week Street. To the northeast is a private car park, and east is a three storey former telephone exchange building.
- 1.02 The Maidstone Town Centre Conservation Area abuts the west boundary of the site on Week Street and there are a number of Grade II listed buildings to the north, west and south. The site falls within the 'Primary Shopping Area' and the defined Town Centre in the Local Plan.

2.0 PROPOSAL

- 2.01 This application seeks permission for redevelopment of the site for a 132-room hotel including rooftop restaurant and bar. This would involve demolition of all buildings on the site including the building fronting Week Street.
- 2.02 The development would cover the entire site comprising a 9 storey building on the east side fronting Wyke Manor Road. This would lower to 4 storeys within the centre of the site, lowering again to a 3 storey frontage building on Week Street. The main hotel entrance would be off Week Street with the lobby and reception leading to a restaurant. Servicing of the hotel would be from Wyke Manor Road where there would be a secondary entrance from Wyke Manor Road which would also provide access to the rooftop bar/restaurant that would be open to the public. There would be a basement level providing rooms and the ground floor would include staff facilities, delivery/service access, refuse stores and cycle parking. The floors above would provide the remaining hotel rooms and the top floor would have an enclosed rooftop bar and restaurant.
- 2.03 In terms of appearance, the 9 storey building would be mainly faced with brickwork and glazing with detailing, layering, and interest provided through the use of materials, recesses and set-backs. The central 4 storey section would be finished with brickwork. The building on Week Street would have a mainly glazed frontage on the ground floor with brickwork and glazing above. A more detailed explanation of the design approach and an assessment of the design will be set out below.

2.04 The applicant has engaged in a significant pre-application process with officers via a Planning Performance Agreement, including a Kent Design Review Panel on a different earlier scheme, and also with MBC Members.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP4, SP18, SP21, SP23, DM1, DM2, DM4, DM5, DM6, DM8, DM16, DM18, DM21, DM23, DM27, DM29
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Guidance

4.0 LOCAL REPRESENTATIONS

4.01 **Local Residents:** 1 representation received raising the following (summarised) points:

- Concern regarding disruption to trade and vibrancy of the High Street during construction.

4.02 **MBC Visitor Economy & Events Manager:** Supports the application on the grounds that it is compatible with the Destination Management Plan (DMP) objectives for developing the tourism offer in the borough.

4.03 **'One Maidstone' Business Improvement District:** *"One Maidstone, the Business Improvement District, welcomes new investment being made into the town centre. Town centres have seen a need to adapt to the changes in customer and visitor behaviour; academic research demonstrates that for towns to continue to thrive that they need to provide an experience, and new reasons for people to visit. On this basis innovative uses of town centre units are a positive step towards maintaining the health of the town's business economy and would also support Maidstone's ability to stay ahead of national trends for vacancy rates."*

5.0 CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

5.01 **Historic England:** Do not wish to offer any comments and suggest seeking the views of your specialist conservation and archaeological advisers, as relevant.

5.02 **MBC Conservation Officer:** Considers the development would result in a small degree of harm to the significance of the Maidstone Town Centre Conservation Area. (See more detail in the assessment below)

5.03 **KCC Highways: No objections** subject to conditions.

5.04 **KCC SUDs: No objections** subject to conditions.

5.05 **KCC Archaeology: No objections** subject to conditions.

5.06 **MBC Environmental Health:** No objections subject to conditions.

5.07 **Southern Water:** Can provide foul drainage and advise that sewer upgrades may be required for surface water.

5.08 **Kent Police:** Raise a number of issues which relate to either building regulations or the management of the development rather than planning matters.

6.0 APPRAISAL

6.01 Town Centre policy SP4 and the 'Town Centre Vision' within the Local Plan support the regeneration of the Town Centre, and sustaining and enhancing its shopping function and variety of business, leisure and cultural facilities. Hotel facilities would clearly support the aims to sustain and enhance the Town Centre providing accommodation for visitors to the town. The provision of a restaurant/bar is also supported by Town Centre policies.

6.02 The proposal would result in the loss of a retail unit on Week Street where policy DM27 (Primary Shopping Frontages) seeks to ensure retail (A1) remains the predominant use here. This policy can permit other retail or leisure uses but does not refer to hotel accommodation as potentially being acceptable. As such, there would be a conflict with this policy and this will be balanced against other material considerations.

6.03 The main issues for the development are considered to be as follows:

- Principle of a Tall Building
- Design, Massing & Materials
- Townscape Impacts
- Heritage Impacts
- Highways Impacts
- Residential Amenity
- Other Matters (Air Quality, Ecology, Drainage, Archaeology)
- Economic & Environmental Benefits

Principle of a Tall Building

6.04 The highest part of the building is 9 storeys which higher than the predominant scale of buildings in this part of the town centre that are largely 2-3 storeys. The notable exception to this is Colman House, at 11/12 storeys immediately adjacent. There are other notable tall buildings in and around the Town Centre including Maidstone House (9 storeys above street level), Brenchley House (7/8 storeys), and flats at Lower Stone Street (12/13

storeys), Mote Road (13/14 storeys), Wyatt Street (7 storeys), and Union Street (8 storeys) but these are some distance from the site.

6.05 Tall buildings are generally more appropriate in clusters and/or at low points such as river corridors where they are likely to have a lower impact and there is more breathing space around them. There are no clusters of tall buildings around the application site or within Maidstone and they are sporadically located across the town. There are some taller buildings located along the River Medway. The site is at relative high point in the town centre and so does not typically lend itself as being the most suitable location for a taller building but as outlined above the current character of Maidstone sees taller buildings spread across the town so this would not be entirely out of character with the current townscape. Colman House is clearly of relevance but does not mean that another tall building is necessarily acceptable.

6.06 However, I do not consider the height of the building alone is objectionable and it is the massing and articulation, detailing, materials of the building, and its design quality that are most relevant as to whether the building is acceptable, particularly as a taller building will usually be more prominent. The impacts upon the townscape and heritage are also critical factors. With the townscape being characterised by sporadic tall buildings, provided the design quality of the building is of a high standard then the principle of a 9 storey building is considered to be acceptable.

Design, Massing & Materials

6.07 In terms of massing the 9 storey part of the building is broken up considerably through a series of design responses that serve to mitigate its overall visual impact and to add interest to key elevations and at street level as follows:

- There is a 2 storey 'podium' fronting Wyke Manor Road with the remainder of the building above set back. This ensures the building is of an appropriate scale and reduces the net visual impact of the height when viewed at street level.
- There is a set back of the prominent northeast corner which breaks the width of the east elevation to Wyke Manor Road.
- The top floor is set further back to reduce the massing.
- On the north side the majority of the elevation is set back from the northeast corner again with the top floor recessed.
- The rear of part of the 9 storey element is much narrower providing another scaling back of the mass.
- The southern side of the building which would be largely obscured by Colman House has the rear sections set back.

With these measures the 9 storey part of the building is broken up considerably which serves to reduce the mass and provide interest.

- 6.08 The appearance and materials respond to the changes in mass with significant glazing and ragstone at street level on Wyke Manor Road to provide interest. Above, half of the building would be finished with brickwork and ragstone with the prominent northeast corner fully glazed which breaks up the width. The recessed top floor would also be fully glazed providing a 'light' top to the building and breaking up the height. The north side would be made up of the glazed corner with a brick/ragstone section set back, which, like the east elevation breaks up the width. The largely obscured south elevation includes brickwork with recessed areas and glazing which breaks up the mass. The narrow west side of the tall section where the lifts and stairs are proposed would be visible from the High Street and this is broken up with windows and a recessed vertical ragstone panel that runs the full height of the building. The 4 storey part would be predominantly brickwork.
- 6.09 Detailing is provided on the Wyke Manor Road frontage through the use of copper balustrading above the 2 storey 'podium' and to the top of the brickwork section above. The lower balustrading not only provides interest but also highlights the break between the street scaled element and the taller part of the building. The brickwork section would have recessed ragstone inserts around the window surrounds with copper banding between windows to provide continuity of materials with the balustrading. This provides good layering and interest and uses a quality local material. The glazed corner windows would feature metal banding between floors providing horizontal emphasis again with copper balustrading to the top. The brickwork section on the north side would be the same as the road frontage with recessed ragstone inserts and copper banding. The visible part of the south elevation would have recessed ragstone panels to break up the elevation and provide interest and a quality material. The building is well articulated with the windows providing strong vertical emphasis on the east elevation and the ragstone panels on the lower floors lining up with the window inserts above. The copper window divisions on the brick sections line up with the metal banding on the glazed corner.
- 6.10 The frontage building on Week Street would have a mainly glazed frontage on the ground floor which would wrap around the south side with ragstone to the sides and above. This would provide a high quality appearance and replace the poor appearance on the exposed corner which is blank. Above would be a simple brick façade with windows.
- 6.11 The proposed bricks are red clay multi stocks which are a relatively light colour and have good variation in tone and texture (Wienerberger Welham Antique). The applicant has chosen them as they consider they complement the local context and will blend in well. The bricks would not be dissimilar to those used on the existing Week Street frontage and the old Post Office building on the junction of High Street and Wyke Manor Road. It is considered that a more 'traditional' brick such as this is the right approach and it will complement surrounding buildings and work well with the ragstone. No physical brick sample has been provided due to a delay in obtaining samples so this will be required by condition to ensure it is acceptable. In terms of the ragstone, I consider straight coursed blocks as opposed to random rubble would be more appropriate for this modern building and the applicant agrees. The finish of the stone would either be honed or with a light texture which I

also consider is appropriate for a more contemporary building. Plant and equipment and lift overruns will be required on the roofs of the building and these are proposed to be screened by aluminium louvered enclosures which would be acceptable. The applicant has confirmed that any ducts, flues etc. will be internal as would rainwater guttering. Abseiling footings for some window cleaning would be required and these details can be provided by condition. This will ensure a clean finish to the building.

- 6.12 Overall, it is considered that the building is very well designed with considerable breaks in the massing through different heights, set-backs, use of materials and detailing. The different elements of the building are well articulated and quality materials are proposed. It is considered that the proposals would provide a high quality building that would enhance the character and appearance of the local area in accordance with policies SP4 and DM1 of the Local Plan.
- 6.13 The detailing of the building is critical to ensure a quality finish so conditions will be attached to provide details of fenestration, window reveals and recesses, masonry joints and junctions, details of the ragstone coursing, finishes and mortar, lighting, the rooftop plant and lift enclosures, balustrades, and prevent the installation of any external ducts, flues or similar features.

Townscape Impacts

- 6.14 The applicant has carried out a Townscape and Visual Impact Appraisal (TVIA). The TVIA identifies distinct townscape areas and assesses the value of these areas and how sensitive to change they are. It then assesses the visibility and impact of the development from 10 public vantage points within the surrounding area. This takes into account the Maidstone (Centre) Conservation Area Appraisal which identifies that the most important views into the town are from the opposite bank of the River Medway and that the spire associated with the former Church of Holy Trinity provides a focal point and landmark from outside the conservation area, particularly along the High Street. The methodology of the TVIA is in accordance with the relevant guidelines and it provides Accurate Visual Representations/Verified Views of the proposed development.
- 6.15 I consider that the public vantage points identified provide an appropriate visual appraisal of the development. In summary these are from parts of Week Street, along the High Street, Gabriel's Hill, King Street, Wyke Manor Road, Church Street, Trinity Square, and Buckland Hill. Having viewed the site from these public vantage points I consider that the main locations the development would be visible from are the High Street outside the Town Hall and further south, on Wyke Manor Road and further north on Church Street, and from parts of King Street. It is the taller section of the development that would be most visible from these areas.
- 6.16 From the High Street outside the Town Hall which I consider is the most sensitive area being within the historic centre and Conservation Area, and with a high townscape quality, the tallest part of the building would be visible. I agree with the assessment that the development would not have a

significant impact from here as it is only a narrow section of the 9 storey element that would be visible and it is set well back from Week Street. This section of the building would also be predominantly finished in brickwork a material sympathetic to the other buildings visible from the High Street. It is also seen in the context of the taller Colman House. Overall I do not consider it would be harmful to the character or appearance of the townscape from here. Further south on the High Street the impact is very similar and for the same reasons it would not be harmful.

6.17 From Wyke Manor Road and Church Street the development would be highly visible. The townscape quality here is relatively poor with Colman House visible and piecemeal buildings and parking areas associated with the rear service areas of shops on Week Street. The north elevation of the building would be prominent but the mass of the building from here is greatly broken up through variation in form and materials. It would also obscure a large part of Colman House with a high quality building and so it is considered it would actually improve the townscape from here.

6.18 From King Street at the junction with Wyke Manor Road the front of the 9 storey part would be visible and would reduce views of the sky beyond. The building here is broken by the set back above the second floor and further set back of the rooftop glazed section. I do not consider the views of the sky are particularly important and the set-backs ensure the street is not overly enclosed. The south elevation is also broken up with the proposed ragstone panels and overall I do not consider the building would be harmful to the character or appearance of the townscape from here.

6.19 From King Street further east, the top of the 9 storey part becomes visible above buildings on the north side of King Street. The front of the building is again broken by the form and materials and it would be seen adjacent to the taller Colman House. I do not consider the building would be harmful to the character or appearance of the townscape from here.

6.20 Overall, whilst the building would be visible from nearby public vantage points, for the reason above it would not be harmful to the character or appearance of the townscape in accordance with policies SP4 and DM1 of the Local Plan.

Heritage Impacts

6.21 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, whilst Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The NPPF requires the local planning authority, when assessing an application to identify and assess the particular significance of any heritage asset that may be affected by the proposal. The applicant has submitted a Heritage Statement (HS) which has assessed the significance of

heritage assets (listed buildings and Conservation Areas) and the impact upon them.

Listed Buildings

6.22 In terms of listed buildings assessed, the HS has narrowed this down to those located in the following clusters:

- The small cluster of listed buildings on Week Street.
- The northern side of High Street.
- The southern side of High Street and northern part of Gabriel's Hill.
- King Street.
- The former Church of Holy Trinity and adjoining former hospital on Marsham Street.

6.23 This is considered to be a correct assessment of those listed buildings whose settings may be affected. The HS provides a comprehensive assessment of the architectural and historical interest of the listed buildings and their significance.

Week Street, comprising: Water pump situated in passage beside No. 22 Week Street (GII); 22 Week Street (GII) and 18 Week Street (GII)

6.24 The historic interest and significance of these buildings derives from their fabric, architecture, and detailing. The front elevations of Nos. 18 and 22 also contribute to the tight sense of enclosure of Week Street and the diversity of styles which animate the streetscene.

6.25 The development would introduce a replacement 3 storey building on Week Street which is in-keeping with the prevailing scale of frontages. The design and appearance of this part of the building is considered to be of high quality as outlined in assessment above. For this reason the development would not harm the setting of these buildings. The higher parts of the development, by virtue of their setback, would not be readily visible in the context of these listed buildings.

The Northern Side of High Street, comprising: 1 High Street/1-7 Week Street (GII), National Westminster Bank 3 High Street (GII), 5 and 6 High Street (GII), 7 High Street (GII) and 8 and 9 High Street (GII*)

6.26 These buildings provide the frontage of commercial properties that form the corner of Week Street and High Street and continue west to enclose the northern side of High Street and are a very prominent element of the street scene. The HS considers, *"the frontage of varied periods and styles of elevations and the contrasting materials creates a grain of townscape that is typical of High Street, although this frontage is notable for the two formal elevations that are considerably wider than the adjoining properties and retain a higher status in the streetscene. The frontage overlooks Jubilee Square, which is enclosed by a similar grain of townscape to the south, the Town Hall to the west, summarised below, and has a slightly more open aspect to the east with the junctions of King Street, Week Street and Gabriel's*

Hill reducing the sense of enclosure. The 11 storey Colman House providing a prominent landmark at the eastern end of the space."

- 6.27 The proposed frontage building to Week Street would be visible in the context of some of these listed buildings but for the same reasons as above this would not harm the setting of this group of listed buildings. The upper part of the central 4 storey part of the development would be visible in the context of some of the listed buildings as would a narrow section of the 9 storey element. I agree with the HS that the 4 storey element does not compete with the listed buildings in terms of its appearance. A part of the taller section of the building would be seen in the backdrop of some of the listed buildings but I agree that it would cause a negligible change in the view experienced and it would not impact on the ability to appreciate their significance. I therefore do not consider it would harm the setting or significance of the above two groups of buildings.

The Southern Side of High Street and Northern part of Gabriel's Hill, comprising: The Town Hall (GII*), 89 Bank Street (GII), Nat West Bank 91 High Street (GII), 93-95 High Street (GII), 97A-98 High Street (GII), 99-100 High Street (GII), 4 and 6 Gabriel's Hill (GII), 5 and 7 Gabriel's Hill (GII) and 1 and 3 Gabriel's Hill (GII)

- 6.28 The HS states, *"the group on the southern side of High Street and Jubilee Square includes the Town Hall, which partly encloses the western side of the square, the southern side of High Street, between Bank Street and the corner of Gabriel's Hill, and the buildings that enclose the northern end of Gabriel's Hill. The group comprises a diverse range of periods and styles that represents a 'cross-section' through the architectural history of central Maidstone. The frontage of listed buildings between Bank Street and the corner of Gabriel's Hill have considerable group value and are representative of the key periods, styles of architecture, forms of construction and materials in central Maidstone."*
- 6.29 As with the listed buildings on the northern side, the upper part of the central four storey part of the development would be visible in the wider setting of some of these listed buildings and to a lesser degree the 9 storey element as you move eastwards where it is obscured by Colman House. For the same reasons above, I consider that the development would cause a negligible change in the view in respect to the listed buildings that enclose the southern side of the High Street and at the north end of Gabriel's Hill, and it would not impact on the ability to appreciate their significance. I also agree with the HS that the special interest of the listed frontage is best experienced in views to the south, across Jubilee Square, and the ability to appreciate the group of listed buildings would not be harmed by the proposed development as it would be behind you. I therefore do not consider it would harm the setting or significance of these buildings.

King Street, comprising: 2-4 King Street (GII), 20-22 King Street (GII), 24-26 King Street (GII), 52-54 King Street (GII), 70 King Street (GII), 72 King Street (GII), 74 King Street (GII), Brenchley Almshouses 76-82 King Street (GII), East Layne House 91 King Street (GII) and Clarendon Place 1-7 Church Street (GII)

- 6.30 Listed buildings on King Street are dispersed and predominantly on the south side as it extends from the High Street to Queen Anne Road with a line of listed buildings to the east of the 'Gateway' building. The HS considers that, *"generally, the listed buildings contribute to the enclosure and historic alignment of King Street. However, the modern buildings on either side of the timber framed building at No. 52 and 54 King Street have not been particularly sensitive to its character and similarly the construction of The Mall provides a crude addition to the street next to the grade II listed No. 20 and 22 King Street. The upper part of the street is also fragmented by the relatively large surface car park adjoining the junction with Church Street. Colman House is visible at the western end of King Street, however a series of kinetic views illustrate the slight change of alignment of King Street and the impact this has on the way in which Colman House is experienced."*
- 6.31 The development would be largely obscured from King Street between Wyke Manor Road and Church Street so would not affect any listed buildings on this stretch. Further east, the top of the 9 storey section would be visible above buildings on the north side of King Street and could be seen in the context of some of the listed buildings on either side of King Street. Due to the distance from these buildings and the context of Colman House and the wider varied townscape, the development would not harm the significance or setting of these listed buildings.

Holy Trinity and Marsham Street, comprising: Church of Holy Trinity (GII) and Ophthalmic Hospital (GII)

- 6.32 The HS states that, *"the church of Holy Trinity has a complex setting that enables the special architectural and historic interest of the building to be appreciated and experienced to varying degrees. The list entry states that the church forms a group with Nos. 1 to 9 and Nos. 21 to 29 Church Street, although those residential properties are not listed and comprise two distinct styles and periods of building. The church spire is also prominent above the three storey terraces of Marsham Street, east of the church, which combine to create a coherent townscape with a sense of formality. The special architectural interest is best experienced from the immediately adjoining streets of Church Street and Marsham Street and also the churchyard associated with the church itself, with which the church has a very clear historic association. Holy Trinity is located on the slightly higher ground that rises to the north-east of High Street. Many glimpses of the church spire are therefore gained from vantage points throughout central Maidstone, allowing the church to be experienced to a greater or lesser extent. In this context the spire of Holy Trinity is partially visible in a series of kinetic views from High Street, although it is experienced in the backdrop to a commercial townscape, including the presence of Colman House."*
- 6.33 I agree with the HS that the special interest of the Church is best experienced from Church Street, Marsham Street and the associated churchyard, and that the development would not affect these views. Nor would views from Church Street be affected. For these reasons the setting of the Church would not be harmed.

6.34 Overall, it is considered that the development would not harm the setting or significance of any listed buildings. The Conservation Officer agrees that whilst the proposed development would be visible within the context of a great number of listed buildings on High Street, Week Street, King Street, Gabriel's Hill and Church Street, it would not have a direct or harmful impact on their setting.

Conservation Areas

6.35 The site is outside but adjoins the Maidstone Centre Conservation Area (MCCA) to the west, the Holy Trinity Conservation Area (HTCA) is around 75m to the north, the Chillington House Conservation Area (CHCA) is around 210m to the northwest, and the Ashford Road Conservation Area (ARCA) is around 290m to the east. It is considered that the development has the potential to impact upon the MCCA, HTCA and ARCA but due to its distance and the lack of clear views from CHCA it would not have any discernible impact on this CA.

Maidstone Centre Conservation Area

6.36 The MCCA Conservation Area Appraisal (2009) summarises some of the qualities of the CA as follows:

- *A fine example of a medieval planned new town development which retains its original gridded street plan and a high concentration of historic buildings, both listed and unlisted, which give it a strong historic character despite modern redevelopments.*
- *In many places, evidence of the original medieval burgage plots survive, resulting in a characteristic small-scale grain to development and a variety to street frontages.*
- *Most development is still of 2-4 storey height, with only a few modern exceptions to this.*
- *For the most part there is a relatively restricted palette of materials – red and yellow brick or stucco/render for walls, clay tiles or slates for roofs.*
- *Whilst buildings of all ages from medieval times to the 21st Century are represented, the Georgian period has a particularly strong influence on the overall look of the Conservation Area, both in terms of buildings originally dating from the 18th and early 19th Centuries and also in the re-fronting of older properties and the design of more recent buildings.*
- *It is a highly urban area, with continuously built-up streets with building lines being largely consistent and being set at the back edge of pavements, open forecourts being virtually non-existent.*

6.37 The proposed development would not be visible from the vast majority of the conservation area due to the tight grain of the street pattern and enclosure of buildings. I agree with the HS that it would not impact on the ability to appreciate the historic interest of the street pattern or the layers of history represented by the diverse styles and forms of construction of buildings within the CA.

6.38 Views of the Holy Trinity Church spire are possible from the High Street from as far west as Mill Street and whilst it is seen in the context of other buildings this is considered to be an important landmark and view from within the MCCA. During pre-application discussions maintaining views of the spire was a key requirement of the Council and the development has been designed to retain a gap between the proposal and spire when viewed from places in the High Street. The elevation is also reserved in its design and appearance so as not to compete with the spire. However, it would reduce the existing gap between the spire and Colman House and reduce its prominence. The Conservation Officer has also raised this pointing out that views of the Church from the MCCA are identified in the area's appraisal as contributing to its significance. The Conservation Officer considers that the development would result in a small degree of harm to the significance of the MCCA for this reason and I agree within this conclusion.

6.39 This level of harm is considered to be less than substantial and so in line with policy DM4 of the Local Plan and the NPPF, this harm must be weighed against any public benefits of the development which will be carried out later in this assessment.

Holy Trinity Conservation Area

6.40 The HTCA Appraisal (2007) summarises some of the qualities of the CA as follows:

- *The Conservation Area is a fine example of the late Georgian expansion of Maidstone, a period when the town first started to outgrow the confines of the medieval settlement.*
- *It exhibits a very consistent character in the terms of building materials, scale, architectural style and layout, and development of the area was more or less completed within the 50 years between 1800 and 1850.*
- *Within the Conservation Area itself a very high proportion of the original buildings remain and there are few intrusions to weaken the character.*

6.41 I agree with the HS that the proposed development would not be visible from key parts of the CA, such as Holy Trinity Churchyard and Marsham Street. Where it would be visible from the corner of the CA at the junction of Union Street and Church Street, it would be seen against the backdrop of Colman House. As stated above, the north side of the building would provide an interesting elevation through variation in massing and materials. It would obscure a large part of Colman House with a high quality building and so it is considered that it would actually improve/enhance views from the HTCCA from here.

Ashford Road Conservation Area

6.42 The ARCA Appraisal (2008) summarises some of the qualities of the CA as follows:

- *The Conservation Area is a fine example of a late Georgian/early Victorian well-to-do suburb just outside the confines of the medieval town.*
- *It exhibits a very consistent character in terms of building materials, scale, architectural style and layouts, and development was completed largely between 1820 and 1860.*
- *Within the Conservation Area itself all the original buildings remain except for no. 5 Ashford Road, demolished in 1973 and whose site now lies under Wat Tyler Way;*

6.43 Views of the top of the 9 storey section would be possible above buildings visible from King Street where it meets Albion Place but due to the distance and the context of Colman House, the development would not harm the significance or appreciation of the ARCA.

Highways Impacts

6.44 The site is located at a highly sustainable location within Maidstone's Town Centre allowing for good public transport access, non-car trips, and linked trips. The development does not propose any on-site parking which is acceptable at this highly sustainable site. Any visitors and staff who do arrive by car would have to use local parking and car parks many of which are 24 hour, or drop off on local roads. The anticipated impact from traffic during peak times is negligible and would not have any severe impact on the local highway network. Kent Highways also consider this to be the case and raise no objections. The development will include 14 cycle parking spaces on-site with changing rooms, showers and lockers to promote cycling.

6.45 Servicing is proposed outside the site on Wyke Manor Road. The applicant is proposing to change one of the disabled parking bays on Wyke Manor Road to allow it to be used for loading/unloading to restricted times outside of shop opening hours. This would be subject to a separate Traffic Regulation Order process that the applicant can pursue which may or may not be successful. Kent Highways have requested a condition requiring that this servicing arrangement be secured. In my view this is not essential as there are dedicated loading bays on King Street which are around 80m away and so a condition is not necessary. Whilst they are not as convenient for the operator, this would not result in any highway safety issues.

6.46 Kent Highways also request conditions for a Demolition and Construction Management Plan; highway condition surveys before and after construction of the development with commitment provided to fund the repair of any damage caused by vehicles related to the development; and measures to prevent the discharge of surface water onto the highway. I do consider the scale of the development being on a relatively constrained site and within in a busy area means that a Construction Management Plan is appropriate in the interest of highway safety in this case. Any damage to the public highway is not a material planning consideration and surface water will be dealt with on site as outlined in the details of drainage below.

Residential Amenity

- 6.47 There are not many residential properties near to the site. The nearest are flats 1-3, 24 Week Street around 25m north of the site, a block of flats (1-8 Goring Place) around 80m to the northeast and flats (97A-B High Street) around 50m to the south. The applicant has carried out a daylight assessment of the impact of the development on all these properties and for sunlight on the properties to the north only as they have south facing windows to the development. The assessment shows that the impact on daylight and sunlight to any of these properties would be within guidelines and I therefore do not consider there would be any harmful impacts upon daylight or sunlight.
- 6.48 In terms of outlook from any windows, the taller section of the building would be at an oblique angle around 40m away from the windows of flats 1-3, 24 Week Street. Because of this distance and angle, combined with the varied townscape character it is not considered that the development would result in overbearing or oppressive impacts when viewed from those windows. In addition the taller Colman House already exists behind the site at this point. For the flats at 1-8 Goring Place, the taller section would be around 80m away and would sit in front of the taller Colman House such that there would be no harmful impact on outlook. For the properties on the High Street, the taller section would be obscured by Colman House.
- 6.49 With regards to noise and disturbance, I do not consider the use of the hotel or rooftop bar would result in any impacts above that already experienced in this town centre location which has many day and night time uses nearby. The applicant is proposing opening hours of 10am to 11pm on weekdays, until 1am on Saturdays and until 8pm on Sundays for the public bar/restaurant. It is considered that these hours are acceptable in this town centre location where there are other similar uses opening to these hours. The impacts on residential amenity are therefore in accordance with policy DM1.
- 6.50 The development would be in close proximity to north facing windows on Colman House. This building is in use as offices and the impact upon the outlook or light for an office use is not a material consideration.

Other Matters

Air Quality

- 6.51 The site is adjacent to an Air Quality Management Area (AQMA) for NO₂, which runs along King Street south of the site. The AQMA encompasses the main roads around Maidstone. An air quality assessment has been submitted which assesses the impact of increased vehicle movements associated with the development (visitors, staff and servicing) and the fact that many of these would be to local car parks rather than the site. It concludes that any increases in NO₂ concentrations would be negligible and Environmental Health agree with this conclusion and raise no objections. In line with the Council's Air Quality Planning Guidance, an emissions mitigation calculation has been used to quantify potential emissions from the development and provides a suggested mitigation value for proportionate mitigation. A number of potential mitigation measures which are predominantly outlined within the

Travel Plan have been put forward and the specific measures can be secured by condition.

Drainage

- 6.52 Surface water currently drains to mains surface water drains within the vicinity. The proposal is to reduce the current run-off rates from the site by around 75% but still discharge to the mains sewer. Because a basement is proposed and the site is to be fully developed there is no space for below-ground storage options or features such as swales. As such, it is proposed to provide a 'green' planted roof with a flow restriction device. This will cover an area of 500m² across two levels on the roof above the bar and on the 4th floor roof space.
- 6.53 KCC LLFA raises no objections to the principles of the proposals subject to discharge rates to the mains surface water sewers being agreed with Southern Water. Southern Water has advised that provided discharge rates are no greater than existing this will be acceptable. As rates are expected to be lower this seems to be achievable. KCC recommended a condition to provide the fine details of the SUDs scheme which can ensure this is the case.
- 6.54 Foul drainage would go to the mains sewers and Southern Water have confirmed there is capacity.

Ecology

- 6.55 This is a brownfield site with minimal if any ecological value so mitigation is not necessary. Therefore the proposals provide for enhancements in the form of the green 'planted' roof which is proportionate. Other enhancements such as bird, bat, and bee bricks would also be appropriate and can be secured via condition.

Sustainable Design

- 6.56 The building will meet a 'BREEAM Very Good' standard as required by policy DM2 of the Local Plan. The building strategy focuses on the fabric of the building to reduce emissions and save energy demand and includes 150m² of south facing PV panels on the 4th floor roof to further contribute to energy and carbon reduction.

Archaeology

- 6.57 KCC Heritage advises that there is potential for significant archaeology to survive on this site and conclude that a condition requiring details of archaeological work and details of foundations designs and any other proposals involving below ground excavation are provided prior to the commencement of development. This would ensure that any features of archaeological interest are properly examined and recorded, and if necessary preserved in situ in accordance with policy DM4 of the Local Plan.

Environmental Impact Assessment

6.58 The scale of the development is well below any relevant thresholds for EIA development. It is not considered that the characteristics or size of the development are such that significant environmental impacts are likely to arise or that would warrant an EIA.

Representations

6.59 Any disruption to trade in the local area during construction is not a material planning consideration.

Economic & Environmental Benefits

6.60 The applicant has calculated that the hotel would bring approximately £1.2 million of additional visitor spending per year for Maidstone. This has been calculated based on the estimated number of visitors per year and their likely spend (within both the hotel and other local uses such as visitor attractions, retail, and leisure uses) which have been worked out using 'The Economic Impact of Tourism Kent – 2017' reports which provide an overview of tourism activity in Kent for 2017 and were commissioned on behalf of 'Visit Kent'. The proposals would also create an estimated 53 additional full time jobs for the hotel and 13 for the bar/restaurant. Whilst these are estimated, there is no doubt that the proposals would bring substantial economic benefits through spending in Maidstone and the Town Centre, and from the creation of new jobs.

6.61 For the reasons outlined above it is considered that the proposed building represents high quality design and would serve to enhance the character, appearance and vitality of the local area which is in accordance with policies SP4 and DM1 of the Local Plan and the NPPF. The proposals would therefore also bring environmental benefits to the town centre location through improvements in the townscape, an increased diversity of town centre uses and enhanced vitality and viability.

Balancing of Matters

6.62 As outlined in the assessment above there is some conflict with policy DM27 (Primary Shopping Frontages) as the proposal would result in the loss of a retail unit on Week Street where policy seeks to ensure retail (A1) remains the predominant use here. The proposals would also result in a low level of 'less than substantial harm' to the Maidstone Centre Conservation Area. In line with policy DM4 of the Local Plan and the NPPF this harm must be weighed against the public benefits for the development.

6.63 National Planning Practice Guidance states that, "*public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives.*" In this case, it is considered that the economic and environmental benefits outlined above would be on such a scale so as to be regarded as significant wider public benefits and that this would outweigh the low level of 'less than substantial' harm to the Maidstone Centre Conservation Area. This is in accordance with policy DM4 of the Local Plan and the NPPF.

6.64 In addition these benefits are considered to outweigh the loss of an A1 retail unit and the conflict with policy DM27. The proposals would regenerate the site and clearly bring visitors to the town centre which would help to enhance the vitality and viability of the town centre as a whole.

7.0 CONCLUSION

7.01 The development is considered to be very well designed with considerable breaks in the massing through different heights, set-backs, use of materials and detailing. The different elements of the building are well articulated and quality materials are proposed. It is considered that the proposals would provide a high quality building that would enhance the local area and would not cause harm to the character or appearance of the townscape in accordance with policies SP4 and DM1 of the Local Plan.

7.02 The proposals would regenerate a central Town Centre site with a high quality building and bring substantial economic benefits helping to achieve the aims of policy SP4 of the Local Plan and the 'Town Centre Vision' within the Local Plan.

7.03 The development would result in the low level of 'less than substantial' harm to the Maidstone Centre Conservation Area but this harm is outweighed by the significant public benefits associated with the economic and environmental benefits of the development in accordance with policy DM4 of the Local Plan and the NPPF.

7.04 The loss of a retail unit on Week Street and thus conflict with policy DM27 is outweighed by the economic and environmental benefits of the overall development.

7.05 Any other impacts from the development are either acceptable or can be mitigated by condition.

7.06 Therefore permission is recommended subject to the conditions as set out below.

8.0 RECOMMENDATION

APPROVE SUBJECT TO THE FOLLOWING CONDITIONS:

Approved Plans

1. The development hereby permitted shall be carried out in accordance with the Proposed Plans as listed on the Drawing Register & Issue Sheet received on 11.11.19.

Reason: To clarify which plans have been approved and to ensure a high quality development.

Time Limit

2. 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.

Compliance

3. The development shall be carried out in accordance with the external building materials as outlined within the Design & Access Statement and as shown on the proposed plans as follows:

- a) Light red coloured stock bricks
- b) Ragstone inserts around the window surrounds on the north and east elevations of the 9 storey section
- c) Ragstone cladding on the ground and first floors on the east elevation of the 9 storey section
- d) Ragstone recessed inserts on the south and west elevations of the 9 storey section
- e) Ragstone on the Week Street frontage
- f) Copper window divisions
- g) Copper balustrading
- h) Metal banding on the fully glazed sections including the roof top floor

Reason: To ensure a high quality development is delivered.

4. The development shall be carried out in accordance with the installation of PV Panels as shown on drawing no. A-100-004 RevPL0.

Reason: To ensure a high quality development is delivered.

5. All planting, seeding and turfing specified in the approved green roof landscape details shall be carried out in the first planting season (October to February) following the commencement of the use of the building and any planting which fails to establish or plants which, within five years from the commencement of the use of the building, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: To ensure a high quality development is delivered and in the interest of biodiversity enhancement and surface water drainage.

Pre-Commencement

6. No development shall take place, including any demolition works, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan shall provide for:

- a) Locations for loading/unloading and storage of plant, waste and construction materials;
- b) Details of any necessary temporary traffic management measures;
- c) Arrangements for the turning of vehicles;
- d) Arrangements to receive abnormal loads or unusually large vehicles;

Reason: In the interests of highway safety highway both during the demolition and construction phase of the development.

7. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the principles contained within the Outline SUDS Strategy report by Surface Property (October 2019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- a) That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- b) Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a phased 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.

9. No development shall take place until details of foundations designs and any other proposals involving below ground excavation have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation in situ of any important archaeological remains.

Post-Basement Level

10. No development above basement level shall take place until the following details have been submitted to an approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- a) Large scale plans of all window reveals including those with ragstone panel recesses. Details shall show sufficient recesses in order to provide depth and layering of materials as outlined and shown within the Design & Access Statement
- b) Large scale plans showing details of all ragstone panel recesses as outlined and shown within the Design & Access Statement
- c) Details of all windows and frames including glazed areas and metal banding
- d) Details of masonry joints between any brickwork and stonework
- e) Details of masonry joints between brickwork or stonework and any windows or glazing
- f) Details of expansion joints which shall be located to minimise their impact
- g) Details of coping to the top of the brickwork sections
- h) Details of any fixings and footings for window cleaning equipment which shall be designed and positioned to limit their visibility
- i) Details of the copper balustrades and banding
- j) Details of rooftop plant and lift enclosures
- k) Samples of the 'Wienerberger Welham Antique' stock brick or an alternative stock brick of similar colour and variation in tone and texture.

Reason: To ensure a high quality development is delivered.

11. No development above basement level shall take place until a landscape scheme for the green roofs on the 4th floor roof and roof top levels 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.

Reason: To ensure a high quality development is delivered and in the interest of biodiversity enhancement and surface water drainage.

12. No development above basement level shall take place until a sample panel of the ragstone, which shall be straight coursed with a honed or light textured finish, has been constructed on site for inspection and approved in in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a high quality appearance.

13. No development above basement level shall take place until details of any external lighting 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 thereafter retained.

Reason: To ensure a high quality appearance.

14. No development above basement level shall take place until details for the provision of bird, bat, and bee bricks 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 thereafter retained.

Reason: In the interests of biodiversity enhancement.

15. No development above basement level shall take place until details of a scheme for the extraction and treatment of cooking fumes has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first use of the premises and thereafter maintained to the satisfaction of the local planning authority. Any external installations shall be positioned to limit their visibility from public vantage points.

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers and to ensure a high quality appearance.

16. No development above basement level shall take place until a Building Maintenance Plan covering the external appearance of the elevations of the building has been submitted to and approved in writing by the local planning authority. The Plan shall provide the following:

- a) Details of the methods of building inspection and frequency
- b) Details of the impacts upon the building that need to be rectified such as water streaking and staining
- c) Measures to clean or rectify any impacts identified and the timescales for doing so

The approved Plan shall thereafter be adhered to for the lifetime of the building.

Reason: To ensure the high quality appearance of the development is maintained.

Pre-Occupation

17. The development shall not be occupied until a final Travel Plan in accordance with Planning Practice Guidance and following the principles of the submitted Travel Plan, including arrangements for payment of a monitoring fee, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall quantify what measures or offsetting schemes are to be provided to reduce the transport related air pollution of the development and follow the mitigation principles outlined in the Air Quality Assessment (January 2020). The approved Travel Plan shall thereafter be implemented and maintained.

Reason: In the interest of sustainable transport and mitigating impacts upon air quality.

18. The development shall not be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent

person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to neighbouring land are minimised, and to ensure that the development as constructed is compliant and subsequently maintained.

Restrictions

19. No fans, louvers, ducts, vents, flues, or other similar apparatus shall be installed externally without the prior written approval of the Local Planning Authority apart from any approved under condition 15.

Reason: To ensure a high quality appearance.

20. The roof top bar and restaurant shall not be open to members of the public outside the hours of 10am to 11pm Monday to Friday, 10am on a Saturday through to 1am on a Sunday, and 10am to 8pm on Sundays.

Reason: To accord with the hours applied for and those that have been assessed and to safeguard the enjoyment of their properties by nearby residential occupiers.

21. The hotel shall be used for C1 use only and for no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification);

Reason: To accord with the terms of the planning permission.

22. The roof top bar and restaurant shall be used for A3 or A4 use only and for no other purpose (including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification);

Reason: To accord with the terms of the planning permission.



100 m
200 ft

REFERENCE NO - 11/1948		
APPLICATION PROPOSAL Part retrospective planning application for the retention of two lakes known as 'Bridges' and 'Puma' and works to create 3 additional lakes all for recreational fishing, erection of clubhouse, building and associated works and landscaping.		
ADDRESS Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent, TN12 9BU		
WARD Marden & Yalding	PARISH COUNCIL Marden	APPLICANT Mr & Mrs Harrison
DECISION DUE DATE 23/02/20		PUBLICITY EXPIRY DATE 03/12/19

1.0 BACKGROUND & PROCEDURE

1.01 This application was heard at Planning Committee on 23rd January 2020. The application was recommended for approval and the Committee Report and Urgent Update Report are attached at the **Appendix**. Contrary to the recommendation of the Head of Planning and Development, the Committee voted to refuse the application for the following reasons:

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members had regard to the changes to the proposals since the Council's previous assessment in 2012 and, taking into account all considerations including the material consideration of the previous consent and changes to the application since then, considered that:

- 1. The overpowering height and proximity of the new formulation of the landscaping, particularly the western bund, causes less than substantial harm to the setting of the adjacent Grade II listed heritage asset which is not outweighed by an acceptable level of public benefits contrary to paragraph 196 of the NPPF;*
- 2. Because of the configuration of the land, in particular the height, there is a loss of residential amenity to the neighbouring buildings to the west of the site contrary to Policy DM4 of the Maidstone Borough Local Plan 2017; and*
- 3. The effect on the landscape is contrary to the guidance set out in the Landscape Character Assessment and, in light of the clear views from the footpath KM129, there is a clear harm in that the changed landscape can be clearly viewed from that footpath and other locations.*

1.02 Pursuant to paragraph 30.3 (a) of Part 3.1 of the Council's Constitution and paragraph 17 (a) of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters (Part 4.4 of the Constitution), planning officers advised the Committee that they did not consider each reason for refusal was sustainable and they could have significant cost implications

before a vote was taken. Therefore the decision of the Planning Committee was deferred to its next meeting.

1.03 Paragraph 17(b) outlines that at the next meeting, should the Committee vote to continue with a decision which it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, Councillors will be requested to refer the consideration of the application to Part II of the meeting (private session), to offer Members further advice on the legal and financial implications, and the likelihood of success at appeal. If the Committee still decides to refuse the application/impose an unreasonable condition, the Head of Planning and Development will on the advice of the Legal Officer present and in consultation with the Chairman of the meeting, immediately after the vote has been taken, refer the application to the Policy and Resources Committee for determination.

2.0 ADVICE

2.01 Officers have sought Counsel's advice on the grounds of refusal and the risk of costs at appeal and have taken this into account in reaching the views set out below. Counsel's full advice is attached as an **Exempt Appendix** to this report.

2.02 In considering each ground of refusal it is important that Members are reminded of the following principles and matters:

- The need to give clear reasons in a case where Members disagree with an officer's recommendation to grant.
- Recent case law underlines the fact that where a committee has made a previous decision on a development and then makes a contrary decision on a similar scheme on the same site, the need to give very clear and cogent reasons for taking a different viewpoint is heightened. The public need to know why a consistent view is not being taken.
- Reasons for refusal need to be full, clear and precise and refer to all relevant Development Plan policies.
- The differences of the development from that assessed in 2012 consist of lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower. The western banks begin to rise around 6m closer to the western boundary in some places. The corners of the lakes are at slightly different angles and the islands within the lakes would be different in shape and location.
- The baseline or assessment position must be on the basis of there being no development where Bridges and Puma Lakes, and Lakes 1-3 are located and so when the site was generally level. However, the access onto the A229, the access road and car park, and the raised lakes in the southeast part of the wider complex are all lawful and form part of the

baseline context for assessment. As do the substantial lawful raised lakes at Riverfield Fish Farm to the east.

Ground 1 (Harm to the Setting of Grade II Listed Hertsfield Barn)

1. The overpowering height and proximity of the new formulation of the landscaping, particularly the western bund, causes less than substantial harm to the setting of the adjacent Grade II listed heritage asset which is not outweighed by an acceptable level of public benefits contrary to paragraph 196 of the NPPF.

2.03 This reason for refusal refers to harm to the setting of the Grade II listed Hertsfield Barn which is approximately 30m west of the proposed raised lakes. The NPPF at paragraph 190 requires the local planning authority, when assessing an application to "*identify and assess the particular significance of any heritage asset that may be affected by the proposal (including by development affecting the setting of a heritage asset)*". Therefore if a development is to harm the setting of the Barn it is important to identify what is the harm to the 'significance' of the Barn.

2.04 As advised in the Committee Report at paragraph 7.48, the application site to the east of the listed Barn was previously generally level and largely open and this formed part of the historic setting of the Barn. There is direct inter-visibility between the Barn and the application site and if Members considered that this open and level land is important to the Barn's history and therefore its significance, on further consideration by officers and based on the legal advice, there is a reasonable evidence base from which to allege that the development would cause 'less than substantial harm' to the heritage significance of the Barn.

2.05 Paragraph 196 of the NPPF states that, "*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal*". National Planning Practice Guidance states that, "*public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives.*" The development would provide economic benefits through employment at the site and to the rural economy through direct and indirect spend associated with the use. However, officers consider that the economic benefits and thus public benefits are not significant. The Environmental Statement also considers the proposals would bring environmental benefits to the wider landscape and through biodiversity improvements, and provide access to a leisure and recreation facility for the public. Biodiversity enhancements would be provided through the planting of new landscaping and the creation of waterbodies but again it is not considered that this would represent a significant public benefit.

2.06 In this regard, there may be an arguable case for taking the view that the 'less than substantial' harm is not outweighed by the public benefits flowing from the development.

2.07 Based on the above, should Members wish to continue with this ground of refusal it is advised that the following changes should be made:

- The reason for refusal should refer to the size, height and proximity of the proposed raised lakes, in particular the western banks of the lakes, as causing less than substantial harm to the setting and significance of the Grade II listed Hertsfield Barn.
- Reference to policies SP18 (Historic Environment) and DM4 (Development Affecting Heritage Assets) of the Local Plan being breached should be made in the reason for refusal.
- The reason for refusal should make clear that Members consider the open and level historic setting of the Grade II listed Barn forms an important part of its significance and setting.

2.08 In terms of providing clear and cogent reasons for taking a different viewpoint from the 2012 decision, as advised at paragraph 7.04 of the committee report and reiterated above, the changes since the 2012 decision are minor in nature and the development remains very similar. The changes consist of lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower. The western banks begin to rise around 6m closer to the western boundary in some places. This is based on a land survey in September 2019 commissioned by the Council and so is accurate. It would therefore be difficult to rely on changes to the proposals as a reason for taking a different view.

2.09 Members could consider that since the last decision they have given enhanced attention to the duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the need to have special regard to the desirability of preserving the building or its setting. There was a particular emphasis on this duty and the weight it should be given after the case of *East Northamptonshire DC v Secretary of State for Communities and Local Government* (Barnwell Manor) [2014] EWCA Civ 137. This post-dates the 2012 Committee decision to grant planning permission. However, Members must still be able to rely upon a proportionate assessment of the significance of the listed Barn and the harm to its setting they consider arises.

Ground 2 (Harm to the Residential Amenity of Neighbouring Buildings)

2. Because of the configuration of the land, in particular the height, there is a loss of residential amenity to the neighbouring buildings to the west of the site contrary to policy DM4 of the Maidstone Borough Local Plan 2017.

2.10 This reason for refusal refers to the living conditions of the occupants of dwellings adjacent to the western boundary of the application site. The reason is not clear on what particular amenities are affected but based on the debate and discussion at the meeting it is assumed this relates to a loss

of outlook due to the height of the raised lakes and a loss of privacy from anglers at the top of the banks.

- 2.11 It remains the view of officers that there is not a reasonable case for maintaining that there is a loss of outlook caused by an undue sense of enclosure. This is on the basis that the proposed banks of the raised lakes are not so steep or so close to the curtilages/gardens or buildings of the affected properties to give a sense of enclosure. Should a costs application be made against this ground there is a high risk that it would be successful.
- 2.12 With regard to a loss of privacy and based on the legal advice, officers consider there may be a reasonable argument for loss of privacy to an unacceptable degree. Members would need to make clear that they consider potential or perceived overlooking from anglers from an elevated position would result in an unacceptable loss of privacy to the buildings and gardens of Hertsfield Barn, and numbers 3, 4, 5, and 6 Hertsfield Farm Cottages, resulting in harm to their amenity contrary to policy DM1 of the Local Plan (not policy DM4). Members would also need to have regard to the proposed landscaping along the west boundary including new trees. In time these trees would serve to break and even screen views from the top of the banks but this would take some time and they could not be secured in perpetuity.
- 2.13 However, it is difficult to give a strong reason why a different view is being taken since the 2012 decision. As stated above, it would be difficult to rely on changes to the proposals as a reason for taking a different view. On this basis and taking into account the legal advice, a refusal on the grounds of loss of privacy is a tenuous reason, and may be difficult to defend at appeal.

Ground 3 (Harm to the Landscape)

3 The effect on the landscape is contrary to the guidance set out in the Landscape Character Assessment and, in light of the clear views from the footpath KM129, there is a clear harm in that the changed landscape can be clearly viewed from that footpath and other locations.

- 2.14 The view of officers and based on the legal advice is that there is not a defensible basis for coming to a different conclusion on the impact on landscape character and visual amenity than Members came to in 2012. The proposed landform is not significantly different to that determined in 2012 and the High Court held that Members correctly compared the 2003 mainly flat landscape with what was proposed (so it was a sound decision in this respect).
- 2.15 As outlined at paragraph 7.12 of the committee report, since the 2012 decision the Council produced the 'Maidstone Landscape Capacity Study: Sensitivity Assessment' (LCA:SA) in 2015. However, this does not provide any materially new information over and above the Maidstone Landscape Character Assessment (2012) that was taken into account by Members in 2012.

- 2.16 The 2012 assessment covered the potential for harm from all major viewpoints being the A229, Hertsfield Lane, the public footpath north of the river and further up the Greensand slope. Therefore, it will be extremely difficult to find a convincing reason for taking a different view about character and visual amenity now and it is advised that this reason for refusal is not pursued. Should a costs application be made against this ground it is likely to be successful.
- 2.17 Notwithstanding the above, the ground of refusal relies solely on the Maidstone Landscape Character Assessment (2012). It refers to some conflict with this guidance (because the development would introduce further raised lakes) and does not specifically explain why or what part of the proposed development is harmful to the character and appearance of the area as required by policy SP17 of the Local Plan.

3.0 CONCLUSION

- 3.01 With each reason for refusal it is very difficult to give a strong and convincing reason why a different view is now taken on the impacts of the scheme on heritage, landscape and residential amenity given the Council's decision to the contrary in 2012. In the case of heritage it is advised that there is a reasonable evidence base to allege harm provided Members demonstrate that they consider the open and level historic setting of the Grade II listed Barn forms an important part of its significance and setting and enhanced attention to the duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 could be cited. In terms of privacy there would arguably be an unacceptable loss of privacy but it is a tenuous reason. In the case of landscape, it is advised that there is no good reason at all to differ from 2012. In the case of outlook, it is advised that this is not a reasonable ground for refusal.
- 3.02 It is difficult to advise the precise level of costs, however, it is expected that any appeal would be carried out under the Public Inquiry procedure where legal representation and expert witnesses would be required by all parties. The amount of any adverse costs award is likely to be significant and this excludes the Council's usual liability to bear its own costs associated with defending any appeal.

APPENDIX 1

**PLANNING COMMITTEE REPORT AND URGENT UPDATE
REPORT – 23 JANUARY 2020**

REFERENCE NO - 11/1948		
APPLICATION PROPOSAL		
Part retrospective planning application for the retention of two lakes known as 'Bridges' and 'Puma' and works to create 3 additional lakes all for recreational fishing, erection of clubhouse, building and associated works and landscaping.		
ADDRESS Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent, TN12 9BU		
SUMMARY OF REASONS FOR RECOMMENDATION – (APPROVE SUBJECT TO CONDITIONS)		
<ul style="list-style-type: none"> • It is considered that the development, subject to mitigation that will be secured via conditions and a legal agreement, would not cause harm to the landscape or visual amenities of the area; heritage assets; residential amenity; biodiversity or the River Beult SSSI; and impacts relating to flood risk, surface water drainage, and groundwater drainage can be suitably mitigated. • The development is in accordance with the relevant policies of the Development Plan, the NPPF, and relevant policies in the emerging Marden Neighbourhood Plan. • There are considered to be 'exceptional circumstances' for granting retrospective permission, namely the planning history and unique circumstances by which significant retrospective development came to be at the application site, and the comprehensive legal agreement that would ensure the development is completed and verified. • The development has been adequately assessed against the pre-development state of the site (2003) and so the applicant has not gained an unfair advantage because this is predominantly retrospective development. • The supporting information for the application, and the assessment and recommendation, has suitably addressed the reasons for the quashing of the previous decision made in 2012. • There are no material considerations that outweigh the above. • Therefore permission is recommended subject to a legal agreement and conditions. 		
REASON FOR REFERRAL TO COMMITTEE		
<ul style="list-style-type: none"> • Cllr McLoughlin has requested the application is considered at Planning Committee if minded to approve in view of the history and the adjacent residents concern that their original objections and drainage matters have not been adequately addressed. • Cllr D Burton has requested the application is considered at Planning Committee. 		
WARD Marden & Yalding	PARISH COUNCIL Marden	APPLICANT Mr & Mrs Harrison

DECISION DUE DATE 23/02/20		PUBLICITY EXPIRY DATE 03/12/19	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
00/1162	Change of use of land and engineering works to create an extension to the existing fish farm and provision of temporary works access	APPROVED	02.01.01
03/0836	Change of use of land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park. The existing access to Staplehurst Road is to be improved	APPROVED	22.09.03
09/1380	Retrospective application for the change of use of existing lakes from fish farm to recreational angling and retention of ancillary car parking and access to site (this related to the Mallard Lakes)	APPROVED	26.11.09
09/2027	Retrospective application for the retention of buildings and mobile facilities to serve recreational angling	TEMPORARY 3 YR PERMISSION APPROVED	04.01.10
10/0762	Erection of clubhouse including decking area, solar photovoltaic tiles and associated works to replace existing buildings on site	WITHDRAWN	
10/0766	Creation of lakes for use for recreational fishing	WITHDRAWN	

1.0 DESCRIPTION OF SITE

1.01 The application site consists of the majority of a recreational fishing complex known as 'Monk Lakes'. The application site includes 2 ground level lakes known as 'Bridges' and 'Puma' which are completed and in use in the northeast corner of the site. The vast remainder of the site to the southwest includes 3 lakes constructed above existing ground levels referred to as Lakes 1, 2, and 3. Lakes 2 and 3 are complete, and Lake 1 requires further works to complete. None of the lakes benefit from planning permission and are the subject of this application. To the southeast of the application site and part of the wider Monk Lakes site, there are lawful above ground ponds and lakes used for recreational fishing.

- 1.02 The site is to the north of the A229 (Maidstone Road) around 3.5km south of the Linton Crossroads and around 3km northwest of Staplehurst falling within Marden Parish. The site also contains an access road leading to a car park (that have planning permission), and a complex of both permanent and temporary/mobile buildings used as a shop, canteen, toilets and storage. The application site extends to some 35 hectares, although the Monk Lakes facility is larger with the lawful lakes to the east.
- 1.03 The nearest residential properties lie along Hertsfield Lane immediately to the west of the site and are Hertsfield Farm Cottages, Old Hertsfield Farmhouse, Hertsfield Barn and Hertsfield Oast. These dwellings are a minimum of 20 metres from the boundary with the application site. There are also some properties close to the site to the south on the opposite side of the A229.
- 1.04 Old Hertsfield Farmhouse is a Grade II listed building as is Hertsfield barn which is about 50 metres to the east of the farmhouse and it is considered that an element of the application site, (that part of it close to these listed buildings) falls within the setting of these listed buildings.
- 1.05 To the south east of the application site is the extensive 'Riverfield Fish Farm' complex of ponds and lakes. These are not part of the applicant's facility.
- 1.06 The northern boundary of the site runs alongside the River Beult which here is a Site of Special Scientific Interest (SSSI). The northern part of the site is within the flood zone of the river. Further north the land rises steeply upwards to the Greensand Ridge. On the northern side of the River Beult there is public footpath KM129 that runs generally on an east/west axis.
- 1.07 The site falls within the countryside but has no special landscape designation in the Local Plan.

2.0 BACKGROUND/PLANNING HISTORY

2003-2008

- 2.01 In September 2003 the LPA granted planning permission (ref. 03/0836) for the *"change of use of the land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park..."* Amongst other things, the approved drawing showed 12 ponds/lakes, some of which would be above-ground lakes and this covered the current application site.
- 2.02 Between 2003 and 2008 the previous site owner commenced works in connection with that permission. It became apparent to the LPA that the 2003 planning permission was not being lawfully implemented and that the works being carried out on site were not in accordance with the approved plans. Therefore, in September 2008 the Council served an enforcement notice to deal with the breaches of planning control which required the

removal of all material and restoration of the site back to its pre-development 2003 condition.

2008-2012

- 2.03 The enforcement notice was subsequently appealed by the applicant. Clarification over the status of the appeals, requests for an Environmental Impact Assessment (EIA), and various extensions to deadlines to provide information requested by the Planning Inspectorate (PINS) went on for some time. Litigation also arose involving the current land owners against PINS (2009), which was decided in November 2011. The outcome of this was essentially that the appeal would continue.
- 2.04 At the same time in November 2011, the current planning application was submitted in an attempt to regularise the works at the site, being to largely retain development on site but with further works to remodel the banks of Lakes 1, 2, and 3. The LPA resolved to grant permission at Planning Committee in June 2012 and this was issued in September 2012.

2012- 2014

- 2.05 Around September 2012, the land owner asked for the enforcement appeal to be delayed for 6 months bearing in mind the grant of planning permission. The Planning Inspectorate agreed to this.
- 2.06 The applicant carried out some of the works approved under planning permission 11/1948 to complete the development mainly relating to lakes 2 and 3.
- 2.07 In November 2012, an adjoining neighbour to the site filed a Judicial Review (JR) challenge against the Council's grant of planning permission. This was filed on 4 grounds, two relating to EIA grounds, and the other two relating to groundwater flooding. The enforcement appeal was held in abeyance pending the outcome of the JR.
- 2.08 The JR hearing was held in November 2013 with a decision in January 2014 that quashed the grant of planning permission. The Council is therefore required to re-determine the planning application.
- 2.09 In summary, the JR decision found that the Council had failed to consider whether there were exceptional circumstances to grant retrospective permission (a requirement under EIA case law); and that the Council failed to properly investigate potential groundwater flooding on neighbouring land. This will be outlined in more detail below in the assessment. The effect of the Court's decision is that the planning application was returned to the LPA for redetermination.

2014-2015

- 2.10 In April 2014 the enforcement appeal was re-opened and the hearing was held a year later in April 2015. The grounds being debated at the enforcement appeal were only how much time the land owners should have

to restore the site back to its pre-2003 condition, and not the merits of the development.

2.11 In May 2015 the appeal decision was issued and the time periods for compliance with the enforcement notice to restore the site were amended allowing a total time of 22 months (to April 2017). Some of the requirements such as ceasing to use the lakes for fishing were required to stop immediately. The land owner has not complied with any requirements of the enforcement notice to date and is open to prosecution action from the Council. Planning Enforcement has held any action in abeyance pending the re-determination of this planning application.

2015-2019

2.12 In July 2015 additional information was submitted by the applicant in relation to this application so it could be re-determined following the JR decision, including the assessment of groundwater impacts, with evidence gathered from borehole testing. The Council employed Mott MacDonald to provide expert advice on groundwater drainage issues as this does not fall within the remit of the Environment Agency or Kent County Council as Lead Local Flood Authority.

2.13 In November 2016 the Council requested further information relating to groundwater, including further borehole testing for at least 3 months over winter, and requesting responses to consultee objections. The applicant provided this information in July/August 2017 which was sent out for further re-consultation.

2.14 In October 2018 the Council requested further information, which was provided in the form of a new Environmental Statement in February 2019, and this was sent out for further re-consultation.

2.15 In August 2019 the Council commissioned its own topographical survey of the site to verify the accuracy of the applicant's plans. Following this, the applicant submitted amended plans relating to Lakes 1-3, and the proposed clubhouse, and a short addendum to the Environmental Statement in October/November 2019 which was sent out for further re-consultation. Detailed responses relating to groundwater and surface water were provided by neighbouring residents in December 2019.

Comment

2.16 So it is important to note that the LPA has granted planning permission twice for recreational fishing lakes and a clubhouse since 2003 on the application site. The first permission was not lawfully implemented and expired, and the most recent decision was quashed and so the application is being re-determined.

3.0 PROPOSAL

3.01 The application seeks retrospective permission for the retention of the 2 below ground lakes (Bridges and Puma) in their current form in the

northeast corner and raised Lakes 2 and 3 on the west side of the site, also in their current form. Permission is also sought for raised Lake 1 and this requires additional works to complete mainly involving raising the levels of the lake bed and minor reductions in the levels of the lake banks. Permission is also sought for the erection of a new clubhouse building in the centre of the wider complex.

3.02 'Bridges' and 'Puma' lakes are excavated below ground with their water level just below ground level. Lakes 1, 2, and 3 are/would be between 5m to 6.2m above the previous ground level and have sloped sides which run down to the west boundary with some Hertsfield Road properties, to the south boundary with the A229, and within the site itself. The depth of water would be around 2m.

3.03 It is important to note that whilst much of the proposal is retrospective and there are significant above and below ground works on site, planning permission is required for the entire works to create all the lakes, and this is what is being assessed. The assessment is not a comparison between what is currently on site and what is proposed.

3.04 Landscaping is proposed largely in the form of woodland planting along the west and south site boundaries and on the lake slopes, and existing landscaping would be retained around Puma and Bridges lakes.

3.05 A new clubhouse is proposed to provide facilities for anglers which would be in a similar position as the temporary buildings adjacent to the car park. The building would be single storey with hipped roofs and finished in timber boarding and clay roof tiles. It would have a floor area of 266m² and provide toilets and showers, offices, shop, kitchen, and dining area. The existing car park would be formalised with new surfacing and marked spaces, and lowered in the region of 1m from its present position to provide flood compensation. New landscaping would be introduced in and around the car park/clubhouse.

3.06 The application is accompanied by an Environmental Statement (ES) originally submitted under the EIA Regulations 2011. The ES has been updated since the original submission in 2011 with the most recent provided in February 2019. As the development was originally submitted under the 2011 EIA Regulations it remains subject to these.

4.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP17, SP18, SP21, DM1, DM3, DM4, DM8, DM23, DM30, DM37
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EIA Regulations 2011
- Marden Neighbourhood Plan (Draft - subject to Referendum)

5.0 LOCAL REPRESENTATIONS

5.01 **Local Residents:** 3 representations were received to the quashed application and 12 have been received following re-determination. All representations (that are material to the assessment of the planning application) are summarised as follows:

- The 2003 permission has not been implemented and is not a fall-back position and consideration of the application must be based on the pre 2003 consent position.
- The previous decision in 2012 must be disregarded and policy has changed since then.
- Retrospective EIA development should only be granted in exceptional circumstances and the applicant must not gain any unfair advantage.
- Concern regarding the surface water drainage from the site and its impact on neighbouring residences.
- Waterlogging and groundwater flooding has occurred on adjoining land.
- The groundwater assessment by the applicant is not sufficient to demonstrate that off-site flooding does not occur.
- Consider there to be outstanding issues relating to the assessment of groundwater and mitigation.
- Groundwater mitigation will not be sufficient and concern in relation to the adequacy of the drainage ditch and the potential blockage of pipes between the lakes.
- A condition relating to groundwater is not appropriate.
- Concern over the safety of the reservoirs.
- The impacts on the historic environment and designated Heritage Assets (and settings) have not been properly assessed.
- Unacceptable impacts and harm to the setting and fabric of the Hertsfield Barn Listed Building.
- Harmful to landscape and incongruous.
- Contrary to the Maidstone Landscape Character Assessment, Local Plan, and NPPF.
- LVIA reaches unreasonable conclusions.
- Question whether landscaping can be provided in the context of reservoir safety.
- A new phase 1 habitat survey and ecological report is needed.
- The wildlife impact is not examined from the pre 2003 consent position.
- Harmful to residential amenity.
- Loss of privacy.
- Noise disturbance from fishers.
- Loss of light and outlook to properties from the height of the bank and the proposed planting on top of the bank.
- Overbearing and enclosing impact.
- If the planting on the bank is not carried out then there would be a loss of privacy to the properties from the users of the fishing lakes.
- The reasons for issuing the enforcement notice still stand and have not been overcome.

- The Council were justified and correct in issuing the enforcement notice.
- References to conflict with Local Plan policies.
- Current planning policy and material considerations need to be considered.
- Plans are inaccurate and misleading specifically along the west boundary.
- Lack of information.
- It has been difficult to know what information is being relied upon by the applicant.
- Inconsistency of the submissions (plans and reports).
- An entirely new Environmental Statement is needed.
- A full range of alternatives to the proposed development is required and no alternatives have been explored such as a reduced scale of development.
- The benefits of the development are very limited.
- Reference to Protocol 1, Article 1 of the Human Right Act 1998 which provides for the protection of an individuals or companies property.
- The scheme has been designed to include the importation of more material in order to make money and the previous extensive importation would have generated a sizeable income.
- Concern regarding the type of material that has already been imported onto the site and the future material to be imported.
- The application is a waste matter and therefore should be dealt with by Kent County Council.

5.02 A planning agent on behalf of a neighbouring resident has also made submissions referring to material submitted to the Judicial Review, and representations to the enforcement appeal, which included a report on groundwater flooding and a landscape and visual report. The comments made have been summarised in the issues outlined above.

5.03 A review of the application and the expert advice provided to the Council by Mott MacDonald has also been undertaken by the neighbouring resident's consultant (GeoSmart) who specialise in flood risk and drainage. In their latest comments they essentially consider that a number of issues have not been fully addressed by the applicant and do not agree with the conclusions of Mott MacDonald. This will be discussed in more detail below in the groundwater section of the report.

5.04 **Hertsfield Residents Association** (12 properties) raise the following (summarised) points:

- A fresh planning application should have been submitted following the JR quashing.
- Application fails to overcome harm identified in enforcement notice.
- Flood risk.
- Large clubhouse with both retail premises and a restaurant is entirely out of keeping with the rural environment and to the detriment of local

residents through creating additional traffic movements, noise and disturbance.

- Clubhouse is excessive in size and facilities for the scale of the site and is not necessary.
- Clubhouse is of poor design.
- Environmental Statement is deficient and with statements of conjecture or so called professional opinion.
- The application envisages the importation of a further 51,000m³ of spoil, necessitating in excess of 5,000 lorry movements. This will create significant noise, disturbance and loss of amenity to local residents and will by definition make worse an already unauthorised waste operation.
- Contaminated waste used to construct the lakes poses health risk.
- Harm to listed buildings.
- Baseline for LVIA should be 2003.
- Access by cars will cause noise and disturbance.
- The members of the HRA have endured serious harm, including flooding, loss of amenity, and impact on the setting of listed buildings.
- There is no approval for the lakes under the Reservoirs Act so the development poses a health and safety risk.

6.0 CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

6.01 Marden Parish Council:

25th March 2019: Cllrs recommendations remain the same as before and wish to reiterate their comments from previous meetings as follows:

"2011: Cllrs wished to see refusal of the 3 new lakes due to the adverse impact upon visual amenity, residential amenity and the wider countryside. Particular concern was raised regarding the flooding risk due to the loss of storage in the flood plain and the potentially contaminated soil already on site and consequently the absence of any justification for the further importation of potentially contaminated matter. This has led to further concerns regarding the potential and/or existing ground and surface water contamination. It is also noted that any Environmental Statement should relate to the site BEFORE the potentially contaminated soil was imported this is thought to be 2003. Any EIA must include an assessment of the soils that have already been imported into the site not just those the applicant might want to import. (in regard to the 2 below ground lakes Bridges and Puma) Cllrs have concerns about possible loss of storage in the flood plain and potential escape of non-native species into the river. We ask that the Borough Council gets specialist advice from the Environment Agency and Natural England. The Clubhouse and car park need to be commensurate in size with the development they have to serve and this remains

undetermined. If it is approved then a shop should be allowed only to sell products relating to recreational angling.

May 2012: Councillors would like clarification on how the applicant proposes to fill the new raised lakes and wonder whether the Environment Agency is content with any extraction from the river Beult in this period of drought?

August 2015: Cllrs have no further objection provided that the Council is satisfied with the response given by the applicant in relation to our three previous grounds of objection and that the Council is also satisfied that the applicants response to the grounds of the successful judicial review have also been overcome."

December 2019: "Cllrs duly noted the revised amendments. Cllrs had not changed their view and wished their previous comments to be reiterated."

- 6.02 **Natural England: No objections** subject to conditions securing surface water run-off during the construction phase to be directed to Puma Lake and/or the proposed temporary settling pond; surplus waters from the new lakes to be directed to Puma Lake; the existing fish fence is to be extended around the proposed new lakes to prevent the escape of fish to the River Beult SSSI during flood events; foul water to be passed through a Klargester system which is to discharge to Puma Lake; and securing the translocation of non-native species from Bridges and Puma. (This is dealt with under a separate Environment Agency permit)
- 6.03 **Environment Agency: No objections subject to conditions** covering finished levels for the clubhouse and walkway; and flood compensation measures. A separate permit outside the planning process will be required to stock non-native fish.
- 6.04 **KCC Lead Local Flood Authority: No objections** to the proposed surface water drainage strategy.
- 6.05 **KCC Ecology: No objections** subject to the precautionary mitigation measures being incorporated into any Construction Environmental Management Plan, and Natural England and Environment Agency being satisfied re. fish escape and pollutants to River Beult.
- 6.06 **KCC Highways: No objections.**
- 6.07 **MBC Conservation Officer: No objections** in terms of the setting of listed buildings (Hertsfield Barn and Old Hertsfield).
- 6.08 **MBC Environmental Health: No objections** and defer to the Environment Agency.
- 6.09 **KCC Minerals:** Advise that there is a basis for invoking the 'exemption' to minerals extraction.

7.0 APPRAISAL

Judicial Review Context for Decision Making

7.01 Development very similar to the current proposal was approved by the Council in 2012. The previous decision was judged to be unlawful and quashed by the High Court for the following (summarised) reasons:

1. Failure by the Council to consider whether there were exceptional circumstances justifying the grant of retrospective permission for Environmental Impact Assessment (EIA) development.
2. Failure by the Council to adequately consider groundwater flooding within the EIA process.

7.02 The Claimant put forward two other grounds relating to whether the applicant gained an unfair advantage from retrospective EIA development and whether the Council unlawfully purported to deal with groundwater flooding by an ill-considered condition. These grounds were not upheld. There were no other challenges to the Council's assessment or decision on the application.

7.03 As the previous decision was quashed the Council must re-determine the application afresh, having regard to the Development Plan and other material considerations, including material considerations which have emerged since the matter was originally considered. However, it has been established in recent case law concerning consistency in decision making (*Davison v Elmbridge Borough Council* [2019] EWHC 1409 (Admin)) that a Council's previous planning judgement or reasoning for their decision, even if quashed, should be taken into account, and is capable of being a material consideration.

7.04 The proposals have changed since the previous determination by the LPA decision but they are minor in nature and the development remains very similar. The changes consist of lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower. The western banks begin to rise closer to the western boundary in places. The corners of the lakes are at slightly different angles and the islands within the lakes would be different in shape and location. As the changes from the previous determination are minor in nature in the context of the development, the previous planning judgement is still considered to be a material consideration.

7.05 Therefore the assessment below will re-visit all relevant matters but whilst doing this the Council must take into account its previous reasoning for approving the previous development, and provide sufficient and reasonable explanation if it is to reach a different view on any matters.

7.06 It is also of relevance that the Council previously approved fishing lakes at the site under application MA/03/0836 so the principle was accepted at this time. The 2003 permission was not implemented so is not a fall-back position, and the decision was made over 15 years ago, but the Council still

made a decision that fishing lakes developed over the application site, some of which were raised, were acceptable.

7.07 The applicant has sought to address the reasons for the quashing of the previous decision through providing additional information relating to groundwater flooding, and advancing reasons why it is considered exceptional circumstances exist to justifying the grant of permission. Other updated information has been provided in view of the time that has passed such as ecological work, and other additional information for example relating to flood risk. This has all been in the form of an updated Environmental Statement (ES) and addendums. The Council has employed a hydrogeologist expert (Mott MacDonald) to provide advice on potential groundwater flooding issues, this being a matter that is not assessed by the Environment Agency or the Lead Local Flood Authority (KCC).

Main Issues

7.08 The provision of recreational fishing lakes at a rural location such as the application site is acceptable in principle and clearly such uses require land take which is only feasible outside settlements. The Monk Lakes wider site already operates lawful fishing lakes and so the proposals also represent business expansion which is allowed in principle under policy SP21 of the Local Plan subject to an appropriate impact.

7.09 The expansion of this rural business with additional fishing lakes and facilities is acceptable in principle, and the main issues, in order to consider whether such expansion is acceptable or not, are as follows:

- Landscape and Visual Impact
- Flood Risk, Surface Water, and Groundwater Impact
- Heritage Impact
- Residential Amenity
- Biodiversity and River Beult SSSI
- Other Matters

Landscape and Visual Impact

7.10 The landscape and visual impact of the proposals needs to be assessed on the basis of there being no development where Bridges and Puma Lakes, and Lakes 1-3 are located. This is because they do not benefit from planning permission. However, the proposals must be assessed in the context of the lawful raised fishing lakes in the southeast corner of the complex and those at 'Riverfield Fish Farm' to the east, as these do benefit from planning permission.

7.11 The Council's previous assessment in 2012 was also made on this basis and concluded that there would not be any significant landscape harm from the proposals. This assessment took into account the Maidstone Landscape Character Assessment 2012 (LCA). Whilst the application must be re-determined, the Council would need to provide a sufficient and reasonable explanation if it is to reach a different conclusion, particularly as the changes to the proposals since the 2012 are of a minor nature.

7.12 Since 2012, the Council has adopted a new Local Plan (October 2017). The thrust and aims of the countryside protection policies have not materially changed and policy DM37 (expansion of rural businesses) can allow for the appropriate expansion of rural businesses subject to criterion. In 2015 the Council produced the 'Maidstone Landscape Capacity Study: Sensitivity Assessment' (LCA:SA). This was produced to assess the comparative sensitivity of the Borough's landscapes to development and formed part of the evidence base to the new Local Plan to inform the Sustainability Appraisal of development allocations. This is discussed below.

7.13 The 'landscape' impact of the development is the impact upon the character and quality of the wider landscape, whilst the 'visual' impact relates to the generally available views of the landscape and the effects of the development.

7.14 The applicant's ES concludes that the wider landscape impact of the development initially at 'day one' would be 'moderate negative' as it would be un-mitigated without landscaping being established. Once landscaping is established in years 10-15 it concludes that the impact on the wider landscape would be 'moderate positive' due to the proposed landscaping. In terms of the visual impact, the ES concludes that this would be negative from day one from a number of neighbouring properties, public footpaths on the north side of the River Beult, the Greensand Ridge, and the A229. However, from years 10-15 the impact would be 'slight' to 'moderate positive' due to the impact of the proposed landscaping.

7.15 The LCA 2012 identifies the site as falling within the 'Beult Valley' landscape character area. This has the following key characteristics:

- *Low lying broad shallow valley of the meandering River Beult and Hammer Stream within the Low Weald*
- *Many ponds and watercourses with important ecological interest*
- *Species rich native hedgerow field boundaries with mature oak trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed*
- *Mixed agriculture with large fields supporting arable cultivation and small riverside fields with pasture*
- *Sparsely scattered small woodlands*
- *Historic north-south crossing points with ragstone bridges over the River Beult*

7.16 The LCA refers to the application site stating,

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

willow along the roadside which also adds to the artificiality of the landscape."

"58.15There are generally few visual detractors, although the artificial fishing lakes on the A229 are particularly incongruous."

- 7.17 The LCA considers the area is defined as having a moderate landscape condition, moderate visual sensitivity, and a high sensitivity to change. Actions include *"integrate the fishing ponds into the landscape by using more appropriate plant species and resisting further artificial earthworks."* The LCA:SA from 2015, and produced after the previous decision, essentially reaches the same conclusions and does not add any material consideration beyond the 2012 LCA.
- 7.18 The LCA clearly considers that the rectangular ponds and land raising, many of which have planning permission and are at Monk Lakes and Riverfield Fish Farm, detract from the landscape. This assessment was carried out when Lakes 1-3 were incomplete (2012) and so would have assessed the incomplete earth works as they were at the time and not how they are proposed under the application. Nonetheless, Lakes 1-3 would represent man-made raised lakes within the river valley which is a predominantly flat area.
- 7.19 Prior to development, the site was generally level with a gentle slope down to the river from south to north. The raised lakes would introduce further man made features into the river valley regarded as a sensitive landscape in the LCA. However, because they would be adjacent to and within the context of the substantial lawful raised lakes at Monk Lakes and Riverfield Fish Farm, it is considered that the three raised lakes would not appear as an incongruous feature, and their impact upon the landscape character of the wider area would not be harmful. Neither is it considered that the cumulative impact with the existing lawful lakes would be harmful to the landscape character of the area.
- 7.20 From a visual aspect, the raised banks would be visible in public views from a section of the A229, from the PROW on the north side of the River Beult, and in longer distance views from the Greensand Ridge. I agree with the previous committee report assessment that from the section of the A229 where the site is visible, the banks of the proposed lakes would not result in an unduly harmful feature as they would have a relatively gentle slope. The minor changes to the proposals since the previous assessment do not affect this opinion. Proposed landscaping around the south of Lake 1 and to the west of all three lakes would also serve to soften the impact from the A229. Under the assessment in 2012, it was outlined that the plant species in the landscaping scheme would be revised by way of condition (to remove willow). The applicant has therefore provided an amended plan removing the use of willow (a detractor identified in the LCA).
- 7.21 From PROW KM129 to the north side of the River Beult, many views of the raised lakes would be broken by vegetation and where views are open, the proposed raised lakes would be in excess of 250m from the footpath and at this distance and within the wider context, would not result in visual harm.

- 7.22 There are longer distance views of the site from the slope up towards the Greensand Ridge. I agree with the previous assessment that due to the distance of these views and the context of other lawful lakes, the proposed raised lakes would not be significantly intrusive in the landscape. Indeed having viewed the site from here, the lakes would not be prominent.
- 7.23 Bridges and Puma lakes are at ground level and are not identified as visual detractors in the LCA. Their shape is irregular and so they appear more natural and are obviously not raised. For these reasons, and when compared to the pre-development state of the site, they do not cause any harm and they represent another water body seen in the context of lawful fishing lakes and the River Beult. The existing landscaping around them would be retained and also serves to soften the impact of these lakes. They are visible from the PROW north of the river but are 50m away and are not visually intrusive.
- 7.24 In conclusion, the proposed lakes will inevitably have some landscape and visual impact but in the context of the lawful lakes and the viewpoints available, the impact of the lakes is not considered to be harmful to the character and appearance of the area. This is in accordance with policy SP17 of the Local Plan and policies NE3 and NE5 of the emerging Marden Neighbourhood Plan (NHP). In the context of policy DM37 (expansion of rural businesses), the proposals are also appropriate in scale for the location and can be satisfactorily integrated into the local landscape.
- 7.25 Since the previous decision the Environment Agency have confirmed that the proposed clubhouse needs to be raised to have a finished floor level of 17.36m AOD with a raised walkway. This means the building would be raised around 2m above the car park level so the ridge height would sit at some 5.2m above the car park. Being within the centre of the site and so a significant distance from any public vantage points, the visual impact of the clubhouse would be minimal and it would not cause any harm to the surrounding landscape. The design is also acceptable being single storey with a shallow pitched roof, and clad in timber with a clay tile roof.

Flood Risk

- 7.26 Bridges and Puma lakes lie within Flood Zones 2 and 3, as do some areas of the raised lakes at their north end, and small areas on the west boundary. The raised lakes would result in the loss of flood storage of a maximum of 30,200m³. This would be compensated for through the lowering of land levels in the vicinity of the car park providing 16,550m³ of storage and at least 26,000m³ provided in Bridges and Puma lakes between the lake water level and pre-development ground levels (i.e. the lake levels are below the pre-development ground levels). Therefore a total of 42,550m³ compensation storage would be provided.
- 7.27 The Environment Agency have reviewed the proposals and raise no objections in terms of flood risk, compensation areas, and the assessment of flood risk for the clubhouse (including finished floor levels and a dry

walkway for access/egress), and assessment of flow impedance. This is in accordance with policy DM1 of the Local Plan.

Surface Water

- 7.28 The submitted ES considers that prior to development, surface water flowed generally in a northern direction towards the River Beult in some areas via drainage ditches. The ES considers that much of this pre-development surface water drainage system has been obscured or made redundant by the works that have occurred on site since 2003.
- 7.29 Surface water flow from the development would occur via run-off from the raised lakes. This run-off would be controlled via a series of 'french drains', pipes and drainage ditches. Notably there would be a large open surface water drainage ditch along the west boundary where lakes 1-3 border the site, which would control surface water run-off. This mitigation would take into account climate change allowances and would control run-off so it would be no worse than the pre-development rates. Otherwise much of the surface water would be contained within the lakes with overflow cascaded from Lake 1 to 3 and then into Puma Lake, which has controlled discharge to the River Beult.
- 7.30 Kent County Council acting as Lead Local Flood Authority and statutory consultee on surface water drainage matters have reviewed the development and proposed drainage strategy. They advise that provided the ditches are implemented as described then surface water flow rates from the site would be appropriately controlled and raise no objections. They also recommend that an inspection is undertaken to confirm that these measures have been implemented as described. An inspection of drainage works is not normal practice for planning applications but it is considered that this should be carried out in this particular case due to the retrospective nature and scale of the earthworks. This will be secured via the Section 106 agreement (which will be discussed in more detail below). The development is therefore in accordance with policy DM1 of the Local Plan and policy NE1 of the emerging NHP.

Groundwater

- 7.31 The failure by the Council to adequately consider groundwater flooding within the application/EIA process was a reason for the quashing of the previous decision in 2012. The applicant's ES has now carried out an assessment of groundwater impacts and the Council has employed a hydrogeologist specialist Mott MacDonald (MM) to advise, particularly as there is no statutory consultee that covers this matter. This is a particularly complicated issue and this report provides a summary of the key issues.
- 7.32 Representations made by local residents to the west of the site consider that since development has been carried out at the site, flooding and waterlogging has occurred on their land, including raised water levels on a nearby pond. One neighbouring resident has employed their own specialists (GeoSmart) who have commented on the application a number of times.

MM has considered all representations in detail including that of 'GeoSmart' in reaching their conclusions.

- 7.33 In 2015 additional information was submitted by the applicant that acknowledged groundwater flooding as a potential impact and proposed groundwater control measures to mitigate it. This was reviewed by MM on behalf of the LPA in 2016. The LPA subsequently requested clarification and further assessment of certain issues relating to groundwater and drainage, with the applicant's response provided in 2017.
- 7.34 The key deficiency of the 2015 and 2017 information was the lack of baseline data, which makes it impossible to establish conclusively what the pre-development groundwater conditions were (in 2003). Groundwater flow data from 2003 simply does not exist. Therefore to reach a decision on the application, the LPA asked the applicant to assess potential impacts against their interpretation of the likely baseline conditions, based on the available information and their professional judgement.
- 7.35 To ensure that adequate information is provided to support the revised assessment, the LPA set out a series of further issues to be addressed in October 2018. The applicant provided a further technical report in February 2019 which forms the basis for the 'Flood Risk, Hydrology, Hydrogeology and Groundwater and Drainage' chapter of the ES.
- 7.36 MM advise the LPA that the retrospective assessment of groundwater impacts is difficult due the lack of baseline data. Specifically, no pre-development groundwater level measurements are available for the site and, because of the significant earthworks undertaken at the site, the pre-development geological conditions are also uncertain. So, whilst a conceptual understanding of the pre-development hydrogeological conditions can be developed, no data is available either to verify it or, to enable precise quantification of the magnitude of change that has occurred since the site was developed. The impact assessment must therefore be based on an interpretation of the available information and reasonable assumptions.
- 7.37 Because of this uncertainty, the applicant proposed groundwater control measures to mitigate potential offsite groundwater flooding. A significant amount of work has been undertaken by the applicant to develop a conceptual understanding of pre and post-development (albeit not completed) hydrogeological conditions, which has included the drilling of additional boreholes and monitoring of groundwater levels.
- 7.38 MM advise that the total work undertaken to investigate the potential for off-site groundwater flooding impacts is proportional to the level of risk and, commensurate with their expectations for a proposed development of this nature. In summary, the applicant's ES concludes that the pre-development topography is such that the expected groundwater flow direction would be broadly northwards towards the River Beult. It considers that the magnitude of groundwater level change as a result of the development would be small.

- 7.39 MM advise that the applicant's evidence does acknowledge the potential for an off-site impact on groundwater level but the overall tone of the document attempts to diminish the significance of this. Whilst the ES suggests that groundwater impacts due to the development have been minimal, this has not been conclusively demonstrated. Neither has the potential for increased groundwater levels been discounted. MM advise that the development may not have increased groundwater levels in the vicinity of the western site boundary but, since this has not been discounted, they must conservatively assume that groundwater levels at the site may have been increased by the proposed development and thus, mitigation is required. In the absence of baseline data MM advise this is a sensible approach to take and that whilst there is still some uncertainty regarding the ground and groundwater conditions (both on and off-site), this is the usual situation for any proposed development.
- 7.40 The ES considers that groundwater impacts can be mitigated through a groundwater interceptor ditch along the west boundary and has provided an outline design. It would be designed in two parts, a lower part with a perforated pipe to convey groundwater to the River Beult, and the upper part, an open surface water ditch (as outlined in the surface water assessment above). The applicant considers that this would prevent any potential increase in groundwater level west of the site boundary, above the recorded water level at the pond at Hertsfield Farm to the west, and that once implemented, the offsite impacts would be negligible.
- 7.41 MM agree that the proposed drainage system is a suitable solution but the outline design needs to be refined. They advise that the detailed design could be approved by the LPA via a condition which would need to include the following:
- Detailed construction drawings showing all elements of the groundwater and surface water drainage system;
 - Calculations of the anticipated volume of groundwater to be intercepted by the system;
 - Sensitivity testing of the design to allow for any uncertainties;
 - Confirmation (where possible) of the elevations of relevant off-site receptors;
 - A narrative explaining the operating assumptions behind the design;
 - A maintenance plan for the groundwater interceptor drain and surface drainage ditch;
 - Demonstration that the design will resist long-term threats to its integrity and effectiveness;
 - A site inspection and groundwater level monitoring plan to verify that site conditions are consistent with the established hydrogeological conceptual site model and design assumptions
 - A protocol for responding to any unforeseen ground/groundwater conditions during construction.
 - A Verification Report including photographs of the excavations before and after placement of the drainage system components and as-built drawings

- 7.42 It is considered that the mitigation (drainage ditch system) is appropriate in view of the expert advice that, in the absence of evidence to the contrary, there is some potential that groundwater levels at the site may have been increased by the proposed development.
- 7.43 One local resident's consultant (GeoSmart) has made detailed comments on a number of occasions most recently in December 2019, including on MM's advice to the LPA. In summary, they do not consider groundwater impacts have been sufficiently assessed by the applicant, do not consider the feasibility of the proposed mitigation has been demonstrated and so consider a condition is not appropriate, they also raise a number of technical issues, and disagree with some of the advice provided by MM.
- 7.44 In providing their advice, MM have reviewed all representations in relation to groundwater. They have also reviewed the latest representations from 'GeoSmart' and they advise that their conclusions are not affected by this most recent representation. They maintain their advice and recommendations, and that a condition is appropriate.
- 7.45 Whilst disputed by the resident's consultant, it is considered acceptable to require the fine detail of the mitigation via a condition. This is on the basis that the principle of this approach has been sufficiently assessed and scrutinised by MM and they are satisfied the ditch system is in principle a suitable solution and that the applicant's outline design is conceptually sound subject to refinement that the LPA can secure via conditions with the ongoing support of MM.

Heritage Impact

- 7.46 The previous assessment considered there to be no significant impact upon the setting of listed buildings being Hertsfield Barn (GII) and Old Hertsfield (GII) both to the west of the site.
- 7.47 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF requires the local planning authority, when assessing an application to 'identify and assess the particular significance of any heritage asset that may be affected by the proposal.
- 7.48 Hertsfield Barn, a timber framed barn of 15th Century or early 16th Century age with attached 19th Century cattle shelter, is adjacent to the site and is seen in the context of part of the proposed development. The site previously provided a generally flat and open setting to the east of the Barn. This would be changed to grassed banks that would be planted with vegetation. Whilst the land to the east was previously generally level and largely open and this formed part of the historic setting of the barn, I do not consider the application site is an important part of the listed barn's

significance and this derives more from the fabric and architectural merit of the building itself, and its group value and association with the Old Hertsfield, and Hertsfield Oast as a small farm complex. The development would not affect this group value or association and therefore the barn's significance. Old Hertsfield Farmhouse is 18th century, possibly with earlier core, and the listing record states that part of the reason for the listing is for its group value. This building is separated from the site by Hertsfield Barn and Hertsfield Oast such that the proposed development is not clearly seen in the context of the listed building and for this reason the development would not harm the setting or significance of the building. The application site is also not an important part of this listed building's significance similar to Hertsfield Barn. Nor is it considered that introducing sloped grassed and landscaped planted banks would represent a development feature that would be harmful to, or incompatible with, the listed building's settings.

7.49 The Conservation Officer has also assessed the proposals and considers that although the bunding relating to the creation of one of the lakes would lie close to the listed Hertsfield Barn, the impact on its setting is not damaging to its setting or significance. This is in accordance with policies SP18 and DM4 of the Local Plan. He considers there would be no harm to Old Hertsfield.

7.50 Representations have been made that groundwater has caused damage to Hertsfield Barn through damp and so harm is being caused to the fabric of this listed building. As outlined above, there is uncertainty regarding ground and groundwater conditions both on and off site and so it is not conclusive that the development has resulted in groundwater impacts off-site, let alone causing any impact upon the listed building itself. Notwithstanding this, groundwater impacts would be mitigated by the proposed drainage system as outlined above.

Residential Amenity

7.51 I agree with the 2012 assessment that due to the distance from the nearest houses to the west, 3-6 Hertsfield Cottages (28m) and Hertsfield Barn (30m), the proposed gradient of the banks (around 1 in 8), and the overall height of around 6.2m above neighbouring levels, the lakes would not have an unacceptably oppressive impact upon the houses or their outlook, or result in any significant loss of light. This is also the case for the rear gardens of 3-6 Hertsfield Cottages some of which adjoin the site boundary. The minor changes to the proposals since the previous assessment, including where the slope begins to rise closer to the western boundary in places, do not affect this conclusion. The grounds of Hertsfield Barn adjoin the site but this is a parking/turning area and orchard, and the property enjoys other private garden space so that outdoor living conditions would not be unacceptably impacted. Nor do I consider the proposed tree planting and landscaping would have any unacceptable impacts in terms of light or outlook.

7.52 There are two properties on the south side of the A229 to the south of Lake 1, Hurst Green Barn and Swan Oast. Hurst Green Barn would be closest at

20m from the start of the banks, separated by the A229, and at this distance the lakes would not have an unacceptably overbearing impact upon the property or its outlook, or result in any significant loss of light. Swan Oast would be 45m away. Any other nearby properties would be a sufficient distance such that no harm to amenity would be caused.

7.53 I also consider that as the crest of the banks and therefore the potential area for fishing would be over 50m from the nearest houses and at least 33m from the nearest gardens, there would not be any unacceptable impact upon privacy from people fishing. Once more, conditions are proposed to prevent night fishing and car parking near the boundary with residential properties to protect residents from car noise, and noise/disturbance during more sensitive night-time hours. This is all in accordance with policy DM1 of the Local Plan.

Biodiversity & River Beult SSSI

7.54 The applicant has reviewed historical images in order to ascertain what habitats were like in 2003. This shows that the site was used for commercial agriculture in 2003, and prior to that date there were two lakes within the Monk Lakes site, and fish farming lakes to the east. The ES considers that it is likely that habitats would have been of limited biodiversity value. The Council's aerial photography from 2003 is consistent with this and so I consider it is a reasonable conclusion that the majority of the site would have been of limited biodiversity value due to the agricultural uses. However, the site did feature field boundary hedgerows and trees which would have offered biodiversity value.

7.55 Whilst the development is not complete, the ES has carried out an ecological assessment of the current site which includes habitats such as semi-improved grassland, scattered trees and scrub, standing water, ditches, and emergent and ruderal vegetation around lakes. The assessment concludes that the site provides suitable habitat to support small numbers of protected species but populations are unlikely to be significant. The potential for reptiles is negligible to low, amphibians low, moderate potential for bats, and negligible potential for badgers, dormice, water vole, and otter. On this basis, the development would not have any harmful impacts upon protected species or biodiversity to warrant objection in accordance with policy DM3 and policy NE4 of the emerging NHP. Some mitigation measures are proposed in order to ensure no harm to protected species during construction.

7.56 Habitat retention is provided along site boundaries and enhancements in the form of new native planting including trees, shrubs and grassland areas, aquatic planting, landscape management to benefit wildlife, and enhancements to the River Beult. These landscaping measures are considered proportionate to provide biodiversity enhancement at the site.

7.57 KCC Ecology have assessed the application and are satisfied with the conclusions of the ES regarding protected species/habitat and advise that the precautionary mitigation measures would be acceptable which will be secured by condition.

- 7.58 With regard to the River Beult SSSI, the potential for impacts are from the introduction of non-native fish to the river and pollutants from run-off. With regard to foul water/pollutants, a 'Klargester' system will be used to treat water, with foul water being passed through the system and subsequently discharged into Puma Lake, which Natural England considers is acceptable subject to it being secured by condition. Natural England also require that surface water run-off during the construction phase be directed to Puma Lake and/or the proposed temporary settling pond in order to prevent sediments flowing into the River Beult SSSI, that surplus waters from the new lakes to be directed to Puma Lake, and that the existing fish fence is to be extended around the proposed new lakes to prevent the escape of fish to the River Beult SSSI during flood events. As with the previous decision, this will be secured by condition.
- 7.59 With regard to non-native fish escape, as the ground level lakes nearest the River Beult would be allowed to merge with the River Beult in the event of a flood (as they would provide some flood compensation) it is proposed that these lakes would not contain any non-native species (and so they would need to be removed). The fish would be translocated to the raised lakes which would not merge with the River Beult during flood events due to being at a higher level. Natural England considers this is reasonable and proportionate. The Environment Agency advises that the practice of stocking non-native fish and moving live fish between waterbodies requires full engagement with the Environment Agency fisheries team. They advise that this is a process assessed and secured through other official consenting process, outside of the planning regime and requires a permit so essentially there are separate regulations that cover this matter. The proposals are for non-native fish to be in the raised lakes which is acceptable, and the separate Regulations would protect the River Beult SSSI. Permits will also be required for any discharge of water to the River Beult from lakes or ditches. It is concluded that the development, individually or in combination with other developments, is not likely to have an adverse effect on the SSSI.

Other Matters

Construction

- 7.60 The development at the site has so far required significant earthworks that were carried out under a licence/permit issued by the Environment Agency. The site was subject to a Paragraph 19a Waste Exemption, originally granted in February 2004 for an estimated 1.5 million tonnes of material, and this was renewed in March 2007 for a further 1 million tonnes of material. The further soil importation to complete the development is estimated at circa 89,000m³ which would require an Environmental Permit (EP), and the ES states that inert material would be used. The Environment Agency advises that it is likely that a bespoke EP would be required for the earthworks. The EP will have to be in place prior to soil importation and associated activities taking place on site. It will cover the operation of the site whilst the lakes are being constructed, cover the materials being brought onto the site, pollution prevention measures, drainage, monitoring

(gas, surface waters, noise, dust), and post-operation monitoring requirements. Significant lorry movements have taken place and further lorry movements would be required. Such movements do not have significant adverse impacts upon neighbouring amenity. Kent Highways advise that the access to the site is suitable for the proposed development and as before request limits on the times and number of movements. Times and movements were not restricted under the previous decision and I do not consider this is necessary for any highway safety reasons.

- 7.61 It is considered that the construction works to date, which were carried out under an Environment Agency licence have not resulted in any significant adverse impacts upon the local area or local amenity, and the further works required, will be subject to an EP. Nonetheless, in view of the scale of the works and proximity to residential properties, it is considered that a Construction Management Plan is appropriate in this particular case to protect amenity.

Minerals

- 7.62 Part of the site falls within safeguarding areas for 'alluvial river terrace deposits' and 'river terrace deposits' under the Kent Minerals and Waste Local Plan (KMWLP). So as to avoid sterilisation of minerals, policy DM7 of the KMWLP states that permission will only be granted for development where certain exceptions are met. The applicant's view is that mineral extraction would not be appropriate due to potential unacceptable impacts to the River Beult SSSI, flood risks issues, and noise, vibration and air quality issues for nearby dwellings.

- 7.63 The assessment here must once more only be based on the pre-development condition of the site (2003) and not take into account any impacts associated with the development currently on site. In my view, there are certainly risks of harmful impacts upon the SSSI from a potential quarry in such close proximity to the River Beult and also from noise and disturbance to nearby properties. One may argue that this has/could occur as a result of the proposed development through the extraction and importation of soil, and general earthworks but no known harm to the SSSI has occurred as a result of the development so far. Considerable assessment of the impacts of the development has been carried out by the applicant, statutory consultees, and the LPA, and mitigation as part of any planning permission, and via Environment Agency permitting controls would prevent any harmful impacts from further works at the site. To my mind it is not practicable to have quarry operations in such close proximity to the River Beult SSSI due to the potential risks to the SSSI and to a lesser degree the potential impact upon nearby residential properties. It is therefore considered that criterion 2 of policy DM7 is satisfied. KCC Minerals have been consulted and advise that there is a basis for invoking the 'exemption' to minerals extraction and it is considered that the above reasons are sufficient.

Representations

- 7.64 Matters raised that are relevant to planning and not considered above relate to concern that contaminated material has been imported to construct the lakes and this poses a health and water quality risk; whether the landscaping is compatible with reservoir safety; lack of approval under the reservoirs act; accuracy of plans and information; confusion regarding information; water quality, and the protection of property under the Human Rights Act 1998.
- 7.65 As stated above, the material imported to date was carried out under licence by the Environment Agency and the Agency at the time deemed that the materials being brought on the site were appropriate and acceptable with regards to human health and impacts upon water.
- 7.66 With regard to reservoir safety, this is dealt with under separate legislation and the Environment Agency has confirmed that there are currently no breaches under the Reservoirs Act at the site.
- 7.67 As already stated, the Council commissioned its own survey of the site and it is considered that the amended plans submitted accurately reflect what the applicant is proposing. As a significant amount of information had been submitted on the application since it was submitted in 2011, the applicant provided an amended Environmental Statement in February 2019 to provide all the relevant environmental information in one place. Since then an Environmental Statement Addendum was submitted in October, some amended plans submitted in November, and there have been a number of responses to consultees. It is considered that all the relevant environmental information can easily be found since the new Environmental Statement was submitted in February 2019, and consultations have been carried out with relevant parties.
- 7.68 In terms of water quality, as stated above, the material imported to date was carried out under licence by the Environment Agency and the Agency at the time deemed that the materials being brought on the site were appropriate and acceptable with regards to human health and impacts upon water and the environment. As such, it is not considered that any imported material would cause any significant pollution issues. Notwithstanding this, if a permit from the Environment Agency is necessary for any discharge of ground and surface water via the proposed mitigation system this separate permitting regime would adequately cover this matter.
- 7.69 With regard to the reference to the protection of property under the Human Rights Act 1998, this states that every person is entitled to the peaceful enjoyment of his possessions and no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. For the reasons outlined in the assessment above, it is considered that the proposed development, subject to suitable mitigation, would not compromise this right, or any others under the Human Rights Act.
- 7.70 In terms of the proposed landscaping on the banks of the lakes, the Reservoirs Team at the Environment Agency have advised that it isn't ideal to plant trees on embankments due to potential root penetration causing

preferential flow routes for water and falling trees causing damage. They don't advise whether this is right or wrong but state that the opinion of the Construction Engineer appointed under the Reservoirs Act should be sought. The appointed Construction Engineer has advised that the landscaping proposals are acceptable in terms of dam safety under the Reservoirs Act. On this basis, it is considered that the proposed landscaping is acceptable.

Alternatives

- 7.71 The ES considers that there would be no significant adverse impacts from the proposed development, however, the EIA Regulations require an outline of the main alternatives studied by the applicant and an indication of the main reasons for the choice made, taking into account the environmental effects.
- 7.72 The ES has studied the 'do nothing' scenario and states that this would result in half completed reservoirs without mitigation. The ES considers the mitigation would provide benefits to the environment consisting of, but not limited to, landscaping, biodiversity, flood risk and hydrology. The 'do nothing' scenario actually means not carrying out the development at all, and means there would be no lakes on the site at all (rather than left uncomplete) but I agree that the creation of the lakes and landscaping would certainly provide some benefits to the environment, predominantly through biodiversity enhancement. In the absence of any significant adverse harm, I consider the 'do nothing' alternative is not a reasonable proposition. I agree that an alternative site is not realistic bearing in mind the applicant's existing lawful fishing business at the application site.
- 7.73 The ES considers alternative forms of development, and consideration of a reduced form of development has been raised by local residents. The ES considers a scheme that would not involve bringing any further imported soil onto the site. It states that Lake 1 could not be completed as proposed and so could not be used for angling purposes and so the associated recreational benefits would not arise. The ES concludes that alternative solutions would not provide the overarching benefits associated with the fully mitigated development. I do not consider the arguments for a lesser or alternative scale of development have been robustly studied, however, this does not mean that the EIA is not a valid EIA, or that permission should be refused, and in view of the totality of environmental information and the proposed development not causing any significant adverse harm, I do not consider there is a need for further assessment of alternatives.

Exceptional Reasons

- 7.74 EIA case law has established that retrospective EIA development should only be granted in 'exceptional circumstances' and that an applicant should not gain an unfair advantage from a retrospective development. The previous decision was challenged on the grounds that the Council failed to consider whether the applicant gained any unfair advantage but this

challenge did not succeed. The challenge did succeed on the basis that the Council failed to consider the question of 'exceptional circumstances'.

7.75 The ES has now correctly taken 2003 (pre-development) as the baseline and assessed the development against this and the assessment carried out by LPA has been on this basis. For this reason, the applicant has had to carry out the same assessment had the development not been partly retrospectively and so no unfair advantage has been gained.

7.76 Regarding 'exceptional circumstances', the site's history and how it has come to be developed is considered to be an unusual and exceptional case. The site gained planning permission for development in the form of some raised fishing lakes in 2003. This commenced, and the importation of significant materials granted under a licence from the Environment Agency occurred to implement that permission. The Council served an enforcement notice in 2008 as this was not being carried out in accordance with the approved development. Following an appeal, the enforcement proceedings took 7 years to conclude. In the meantime planning permission was granted under this application in 2012, and the applicant implemented some of the approved works. The JR then quashed the decision in 2014.

7.77 The site history demonstrates why significant retrospective development exists at this site, which has been through a combination of two planning permissions. The first was not implemented properly but significant material was brought on site (some of which would have been necessary to implement the permission) before the Council served an enforcement notice. The second was quashed but further work was carried out prior to this. The enforcement notice requires the site to be restored to its pre-2003 condition but any action in relation to the notice has been held in abeyance by Planning Enforcement pending the outcome of this planning application. All these factors and the scale of the works involved represent unique, very unusual, and exceptional circumstances as to why a retrospective EIA application is before the Council.

7.78 In addition to this, a new Section 106 legal agreement (that is being progressed) would secure the following measures:

1. To submit an Environmental Permit (EP) application within 6 months of permission being granted;
2. To submit a landscape management plan within 1 month of permission being granted;
3. To complete the landscaping along part of the western boundary with residential properties within 6 months of permission being granted;
4. To complete the surface water and groundwater drainage mitigation along the western boundary within 9 months of permission being granted;
5. To carry out an inspection, with the Council and Kent County Council, of the surface water drainage works to demonstrate that the works have

been implemented in accordance with the approved details including a verification report;

6. To complete the flood compensation works within 12 months of permission being granted;
7. To start the soil importation within 6 months of the EP being granted;
8. To complete the soil importation within 3.5 years of the EP being issued;
9. To complete the development (excluding the clubhouse) in accordance with the approved details within 6 months of the completion of the soil importation;
10. To submit a land survey of the site to the Council to demonstrate that the development has been completed in accordance with the approved plans/details within 3 months of completion of the development;
11. A s106 monitoring fee of £1,500

(Requirements 4, 5, 10 and 11 are additional to the s106 agreement that accompanied the previous decision)

7.79 The legal agreement ensures that the applicant carries out various requirements to a timetable to ensure that the development is completed in a timely manner. In addition, it requires the applicant to verify that the development has been completed in accordance with the approved plans. In view of the scale, retrospective nature, and this being EIA development, it is considered that exceptionally, such measures are necessary and reasonable. These requirements go far beyond normal practice and it is considered that the above requirements also represent exceptional circumstances that justify the granting of retrospective EIA development in this particular case.

8.0 CONCLUSION

8.01 In addition to local policies supporting the expansion of business enterprise, national policy (NPPF paragraphs 80 & 83) indicates that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs. It also indicates that planning decisions should enable the development of land-based rural businesses and sustainable rural leisure developments which respect the character of the countryside.

8.02 For the reasons outlined above it is considered that the development, subject to the mitigation outlined and controlled by condition, would not cause any harm to the landscape or visual amenities of the area, heritage assets, residential amenity, biodiversity or the River Beult SSSI, and impacts relating to flood risk, surface water drainage, and groundwater drainage can be suitably mitigated. On this basis, the development is in accordance with the relevant policies of the Development Plan, the NPPF,

and relevant policies in the emerging Marden Neighbourhood Plan. I have also considered carefully all representations made in reaching this conclusion.

8.03 There are considered to be exceptional reasons for granting retrospective permission, namely the exceptional circumstances surrounding the history of the retrospective development, and the comprehensive legal agreement that would ensure the development is completed and verified, and the applicant has clearly not gained an unfair advantage because this is retrospective development.

8.04 For these reasons, permission is recommended subject to a legal agreement and the following conditions.

9.0 RECOMMENDATION

Subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION**, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Heads of Terms:

1. To submit an Environmental Permit (EP) application within 6 months of permission being granted;
2. To submit a landscape management plan within 1 month of permission being granted;
3. To complete the landscaping along part of the western boundary with residential properties within 6 months of permission being granted;
4. To complete the surface water and groundwater drainage mitigation along the western boundary within 9 months of permission being granted;
5. To carry out an inspection, with the Council and Kent County Council, of the surface water drainage works to demonstrate that the works have been implemented in accordance with the approved details including a verification report;
6. To complete the flood compensation works within 12 months of permission being granted;
7. To start the soil importation within 6 months of the EP being granted;
8. To complete the soil importation within 3.5 years of the EP being issued;

9. To complete the development (excluding the clubhouse) in accordance with the approved details within 6 months of the completion of the soil importation;
10. To submit a land survey of the site to the Council to demonstrate that the development has been completed in accordance with the approved plans/details within 3 months of completion of the development;
11. A s106 monitoring fee of £1,500

Conditions:

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

PDA-MON-101	(Site Location Plan)
0183-04/02 Rev H	(Proposed Site Layout)
0183-04/03 Rev D	(Proposed Landscaping Plan)
0183-04/04 Rev B	(Proposed Clubhouse and Car Park Layout)
0183-04/05 Rev B	(Clubhouse - Proposed Floor Plans & Elevations)
0183-04/06 Rev A	(Vehicular Access Point)
0183-04/07	(Flood Compensation Plan)
2675/ML/G	(Flood Compensation Plan)
5881 3D-F XSections	(Proposed Cross Sections Sheets 1 to 3)

Reason: For the purpose of clarity, and to ensure a satisfactory appearance to the development and impact upon residential amenity.

2. Prior to the importation of any material, a Construction Management Plan and Code of Construction Practice shall be submitted to and approved in writing by the local planning. The approved details shall be fully implemented. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- a) An indicative programme for carrying out the works
- b) Measures to minimise the production of dust on the site(s)
- c) Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- d) Measures to minimise light intrusion from the site(s)
- e) Management of traffic visiting the site(s) including temporary parking or holding areas
- f) Provision of off road parking for all site operatives
- g) Measures to limit the transfer of mud and material onto the public highway
- h) The location and design of site office(s) and storage compounds

Reason: In view of the scale and length of time to carry out the development and in the interests of highway safety and local amenity.

3. Prior to the importation of any material or the carrying out of any further development, the detailed design of the groundwater interceptor drain shall be submitted to and approved in writing by the Local Planning Authority. The detailed design should be supported by site-specific data, calculations, and justified assumptions that fit with the established hydrogeological conceptual site model and shall include the following:
 - a) Detailed construction drawings showing all elements of the groundwater and surface water drainage system;
 - b) Calculations of the anticipated volume of groundwater to be intercepted by the system.
 - c) Sensitivity testing of the design to allow for uncertainties, including aquifer thickness and permeability, hydraulic gradient and future increases in groundwater level (e.g. due to climate change).
 - d) Confirmation (where possible) of the elevations of relevant off-site receptors.
 - e) A narrative explaining the operating assumptions behind the design, including how the groundwater drainage system would interact with the site surface water system and discharge to the river under a range of groundwater level and river stage conditions. This should be supported by hydrogeological cross-sections illustrating the conceptual site model.
 - f) A maintenance plan for the groundwater interceptor drain and surface drainage ditch, to ensure its long-term integrity and functionality. This should identify who is responsible for maintenance and a means of demonstrating that the plan is being adhered to.
 - g) Demonstration that the design will resist long-term threats to its integrity and effectiveness, such as climate change, settlement, further developments at the site, etc.

The scheme shall be completed in accordance with the approved details.

Reason: To protect neighbouring properties against potential groundwater level impacts.

4. Prior to the importation of any material or the carrying out of any further development, the following details shall be submitted to and approved in writing by the Local Planning Authority:
 - a) A site inspection and groundwater level monitoring plan, to be implemented during construction of the groundwater interceptor drain and associated works, to verify that site conditions are consistent with the established hydrogeological conceptual site model and design assumptions. This should include a protocol for responding to any deviations that would impact on the effectiveness of the approved design, and reporting these to the Local Planning Authority.

The groundwater level monitoring data shall be collated for submission to the Local Planning Authority in a verification report, upon completion of

the groundwater interceptor drain works. The verification report shall also include the following information:

- i) Photographs of the excavations before and after placement of the drainage system components;
- ii) As-built drawings showing the surveyed elevations of installed drainage system components.

Should any deviations from the established hydrogeological conceptual site model or design assumptions be identified, the contractor shall cease works and agree any proposed alterations to the design with the Local Planning Authority in writing, prior to their implementation.

Reason: To protect neighbouring properties against potential groundwater level impacts.

5. Prior to the importation of any material or the carrying out of any further development, the detailed design of the surface water drainage system, which shall be based on the strategy presented in Drawing 29431/001/SK03 prepared by Peter Brett Associates (3 July 2015), shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved details.

Reason: To mitigate any flood risks associated with surface water.

6. Prior to the importation of any material, details of any boundary treatments and their implementation 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: In the interest of visual amenity.

7. Prior to the importation of any material or the carrying out of any further development, details of catch fences to prevent fish from entering the river system in times of flood 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 protect the River Beult SSSI.

8. Any surface water run-off during the construction phase shall be directed to Puma Lake and/or the proposed temporary settling pond as outlined in the 'Water Resources Management Strategy' (22/03/12).

Reason: To ensure sediment does not flow into the River Beult SSSI.

9. All surplus water from the new lakes shall be directed to Puma Lake as outlined in the 'Water Resources Management Strategy' (22/03/12).

Reason: To ensure sediment does not flow into the River Beult SSSI.

10. Prior to the importation of any material or the carrying out of any further development, a Construction Environmental Management Plan relating to biodiversity (CEMP Biodiversity), that shall follow the precautionary mitigation measures detailed in section 5.10 to 5.17 of the ecological report (Preliminary Ecological Appraisal (Phlorum Ltd, August 2017)), shall be submitted to and approved in writing by the local planning authority. The CEMP Biodiversity shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of protecting biodiversity.

11. The development of the clubhouse shall not commence above slab level until samples of the timber cladding and clay roof tiles to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

12. In addition to the requirements of the Section 106 Agreement, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in full in the first planting season following the completion of lakes 1, 2 and 3, and prior to any use of any part of lakes 1, 2 and 3. Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

13. The development shall be carried out in accordance with the River Beult Habitat Enhancement Scheme received on 10/11/11.

Reason: To ensure appropriate biodiversity enhancements.

14. All vehicular access for the importation of material, vehicles for the re-profiling of the lakes and the embankments, and the implementation of the planting proposals, shall use the spur off the existing access directly off the A229 (Staplehurst Road), as shown on drawing number 0183-04/06 RevA (Vehicular Access Point).

Reason: To protect the amenities of adjoining residents and in the interest of highway safety.

15. The clubhouse shall be constructed with its finished floor level no lower than 17.36m AOD and with access as shown on drawing no. 0183-04/05 RevB.

Reason: To protect the building and occupants in the event of a flood.

16. Once the approved parking/turning areas have been implemented they shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

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

Reason: An unrestricted use could cause harm to the residential amenity of neighbours and the character and amenity of the countryside.

18. No angling shall take place between the hours of 10pm and 8am within the areas hatched and annotated on Layout Plan 0183-04/02 Rev H.

Reason: To protect the nearby residents from noise and disturbance at such times.

19. No parking in connection with angling shall take place within the areas hatched and annotated on Layout Plan 0183-04/02 Rev H.

Reason: To protect the nearby residents from noise and disturbance.

20. All access will be via the existing consented access directly from the A229 and there shall be no vehicular or pedestrian access to the site from Hertsfield Lane.

Reason: To protect the amenities of adjoining residents.

21. The clubhouse shall not be used for any overnight accommodation.

Reason: To prevent danger to human life in the event of a flood and to prevent inappropriate residential accommodation.

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

Reason: An unrestricted use could potentially cause harm to the residential amenity of neighbours and the character and amenity of the countryside.

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

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

24. Any foul water shall be passed through a Klargestor system, which is to discharge to Puma Lake as set out in the 'Phlorum' letter dated 20th May 2019, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent harm to the River Beult SSSI.

Item 13

Page 11

Monk Lakes,
Staplehurst Road,
Marden

11/1948

Representation

A 10 page representation has been received from a Planning Agent on behalf of a neighbouring resident which was sent to Members/Substitute Members of Planning Committee and officers. The representation is attached and officer's response is set out below. Where there is not a response to an issue raised it is because it has been considered in the main report.

Relevance of the Enforcement Notice Served in 2008

The representation considers the reasons for issuing the Enforcement Notice (EN) are a formal statement of the Council's assessment of the impact of the development which has taken place, and that a refusal of the application would accord with the Council's reasons for issuing the EN in 2008. Specific reference is made to reasons for issuing the EN relating to landscape impact and amenity (outlook and privacy) with the suggestion that the earthworks enforced against in 2008 were not dissimilar to what is now proposed.

The reasons for issuing the EN, (excluding those relating to the car park and access which have since been granted planning permission), are summarised as follows:

- There were no controls on the height and extent of land raising;
- It was causing a detrimental impact on the countryside;
- It had an overbearing visual impact and was harmful to the amenity of residents;
- Environmental disturbance from earthworks, vehicle movements, noise and dust;

- Lack of a technical justification for a 6m high plateau compared to the ground level lakes;
- Without any properly designed scheme of development the works were considered to be waste disposal;
- Potential highway safety issues from lorry traffic;
- Land raising within the flood zone and potential flood risks;
- Impact upon the River Beult SSSI;
- Further importation of material;
- Harm from the buildings in place to carry out works;
- Uncontrolled 24 hour use which could harm residential amenity;
- Visual harm from temporary buildings;
- Unrestricted retail use (tackle shop) contrary to policy;
- Various harmful paraphernalia (bins, signs, tables etc.);
- The fact that none of these issues were considered under planning permission 03/0836 and so these matters had not been considered.

The earthworks in 2008 as the EN sets out were uncontrolled meaning there was no properly designed final scheme of development and there were no controls over any necessary mitigation whatsoever. It is considered that the harm identified stems from the uncontrolled nature of the development.

In contrast, the proposed development under the planning application is accompanied by an Environmental Statement with substantial evidence and information and clear plans, including proposed mitigation. The planning application has been assessed by statutory consultees (with no objections), the Local Planning Authority, and local residents, and the planning issues raised under the EN are matters considered in the assessment. In recommending planning permission, the mitigation of any impacts would be secured via planning conditions and the legal agreement.

Whilst the EN is a material consideration, the applicant has submitted this planning application in an attempt to regularise the situation at the site. The proposed development including the proposed mitigation is significantly different to the earthworks and situation when the EN was served. It is therefore not accurate to compare the proposed development with the situation when the EN was served, and the EN does not preclude planning permission being granted.

Differences from the 2012 Proposal

The representation considers the development now being considered is substantially different in terms of its scale, nature, and impacts from that considered in 2012, referring specifically to the heights of the banks.

As outlined at paragraph 7.04 of the main report, the main changes from the previous decision are lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower.

Whilst the 2012 report refers to various heights including 5m and 4m heights, the Council commissioned its own land survey in September 2019 and this compares the previously proposed levels to that now proposed and this is what the above assessment has been based on. It is therefore considered that the lakes would not be over 2m higher than the previous scheme as suggested.

As also outlined at paragraph 7.04, the western banks begin to rise closer to the western boundary in places than previously proposed and the corners of the lakes are at slightly different angles and the islands within the lakes would be different in shape and location.

Officers have fully assessed the latest proposals and consider the changes from the previous determination are minor in nature in the context of the wider development and so the previous planning judgement is still a material consideration. However, it is for Members to decide what weight to give to the previous decision and ultimately to reach a decision on the development now proposed.

'Matters of Judgement'

The issues relating to landscape, amenity, and heritage including the fabric of Hertsfield Barn have been raised previously and are fully considered in the main report.

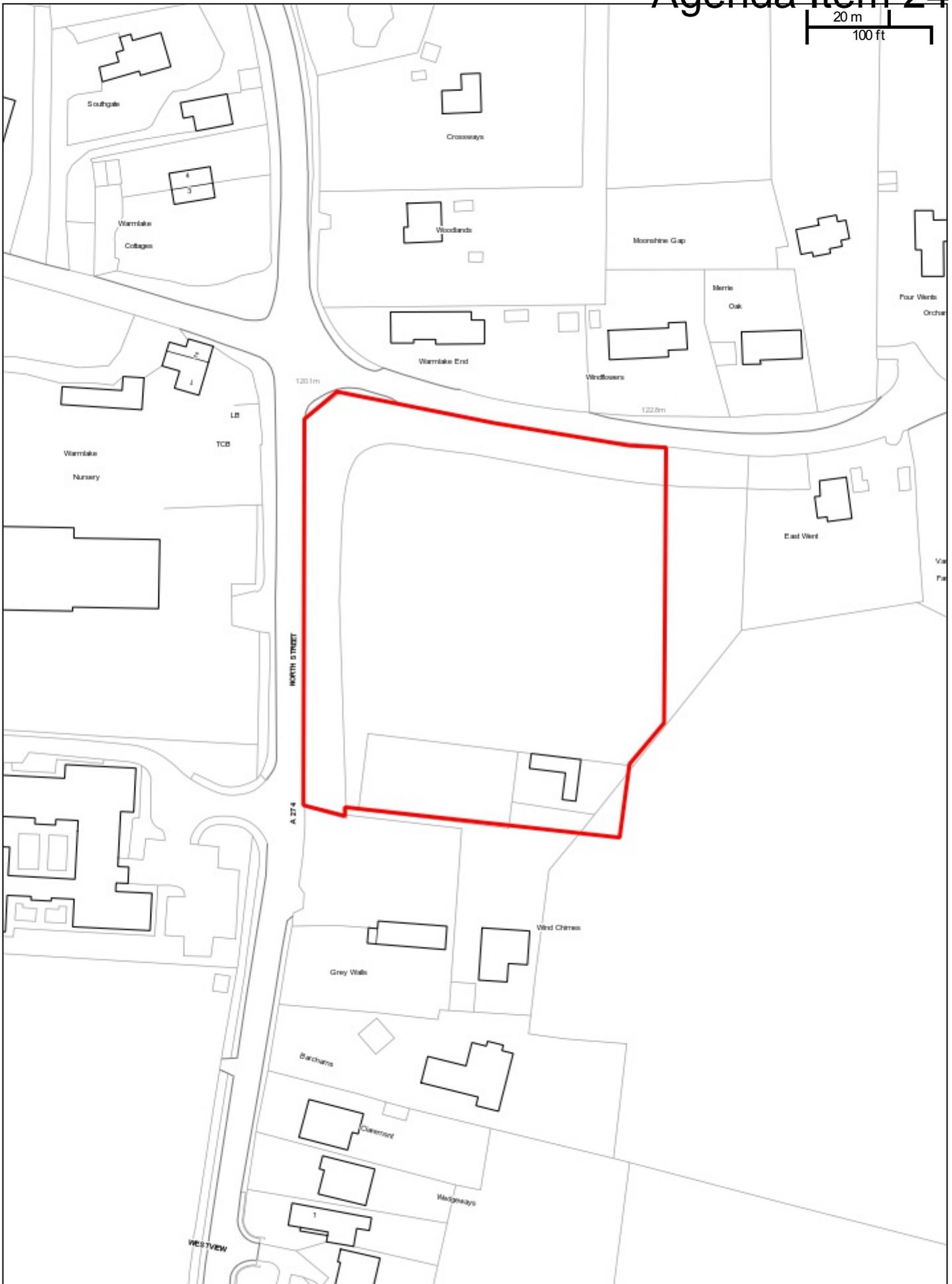
Other Matters

The representation considers that the proposed development is a 'waste disposal operation' because the EN considered this to be the case in 2008 and this has not been assessed. As outlined above, the EN referred to works being carried out in 2008 and in the absence of any properly designed scheme of development there was uncertainty what the works were for, and therefore the works were considered to represent 'waste disposal'. However, since that time, and as evidenced through the supporting documentation for the planning application the material brought on site (that was permitted under an Environment Agency licence) forms an integral part of the development for which planning permission is now sought. Therefore it is now apparent, furnished with the additional application documents that this does not represent 'waste disposal' but works in connection with the planning application.

As outlined in the main report, the Council's consultant (Mott MacDonald) are advising that the proposed drainage system to mitigate groundwater impacts is a suitable solution subject to the fine detail being provided via recommended conditions 3 and 4. Their expert view is that the proposed scheme will be effective in mitigating any impact, and their expert advice will be sought when the details are submitted for consideration.

The safety of the raised lakes is dealt with via separate legislation under the Reservoirs Act and so is not a planning matter. Notwithstanding this, the Environment Agency confirmed in September 2019 that an enforcement notice was served on the site in early 2018 for non-compliance with the Reservoirs Act but this has been removed and any issues have been resolved.

The grant of permission would effectively nullify the EN because the Council would have decided that the proposed development is acceptable. If there was any breach of planning permission or planning conditions should it be granted, enforcement action could be taken as would be the case for any other breach of planning control.



19/506070/REM - Wind Chimes

Scale: 1:1250

Printed on: 19/2/2020 at 11:38 AM by StevieH

REFERENCE NO - 19/506070/REM		
APPLICATION PROPOSAL Approval of Reserved Matters for the erection of 9no. detached residential dwellings (layout, scale, landscaping and appearance being sought, with access already approved as part of the earlier outline approval) following 15/507493/OUT (allowed on appeal APP/U2235/W/16/3145575). (Resubmission of 19/504293/REM) and approval of condition 3 of APP/U2235/W/16/3145575.		
ADDRESS Wind Chimes Chartway Street Sutton Valence Maidstone Kent ME17 3JA		
RECOMMENDATION : GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION The application site benefits from outline permission for the erection of up to 9 dwellings on the site, such that the principle of residential development has been established. The proposed scheme for 9 dwellings is considered to be acceptable in terms of the reserved matters scale, appearance, layout and landscaping such that the development would not cause undue harm to the visual amenity of the street scene and character of the area, to existing or future residential amenity and would be acceptable in terms of highways impacts and all other material planning considerations such that the proposed development would be in accordance with current policy and guidance.		
REASON FOR REFERRAL TO COMMITTEE The recommendation is also contrary to the views of Sutton Valence Parish Council who have requested the application be presented to the Planning Committee		
WARD Sutton Valence and Langley	PARISH/TOWN COUNCIL Sutton Valence	APPLICANT Sheer Ambition Ltd AGENT Peter Court Associates
DECISION DUE DATE 03/03/20	PUBLICITY EXPIRY DATE 10/02/20	OFFICER SITE VISIT DATE 13/12/19

Relevant Planning History

19/504293/REM : Approval of Reserved Matters for the erection of 9no. detached residential dwellings (layout, scale, landscaping and appearance being sought) following 15/507493/OUT (allowed on appeal). – Withdrawn

18/500063/MOD106 : Modification of Planning Obligation under reference APP/U2235/W/16/3145575 to include a financial contribution towards off-site affordable housing. – Withdrawn as could not deal with modification through an application as legal document referred to is a Unilateral Undertaking, however modification agreed to by mutual agreement.

15/507493/OUT : Outline planning application for residential development of up to nine dwellings considering access from Chartway Street with all other matters (appearance, landscaping, layout and scale) reserved for future consideration. – Refused for following reason (allowed at appeal):

‘The proposals would consolidate existing development and result in the urbanisation of the site, which would be harmful to the character and appearance of the countryside, contrary to

Policy ENV28 of the Maidstone Borough Wide Local Plan 2000, the NPPF 2012 and the NPPG 2014. Any planning benefits would not outweigh the planning harm.'

Various applications relating to the history of Wind Chimes itself, these include for the original dwelling, extensions, access and stables.

Appeal History:

APP/U2235/W/16/3145575 in relation to 15/507493/OUT : Outline planning application for residential development of up to nine dwellings considering access from Chartway Street with all other matters (appearance, landscaping, layout and scale) reserved for future consideration. – Appeal ALLOWED

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land sited on the junction of North Street (A274), to the west and Chartway Street, to the north. The site measures approximately 0.9 hectares and its authorised use is equestrian purposes (as approved under application 04/0268 and varied by application 13/0461). There is an existing menage and single storey stable building to the south of the site, with an access from Chartway Street dissecting the site. The access currently serves the stables and the residential dwelling Wind Chimes.
- 1.02 There is existing sporadic residential development along Chartway Street itself and along the eastern part of North Street to the south of the site. Warmlake Nursery and Warmlake Place (Residential home) are located to the west of the application site. The land to the east of the site is open fields with Public Rights of way located across.
- 1.03 The site is outside the settlement boundary of Sutton Valence, which lies approximately 600m to the south of the site.
- 1.04 The site is enclosed by mature trees and planting along the northern and western boundaries, with fencing. The southern boundary with Grey Walls is enclosed by fencing and mature hedging. To the east there is open wooden post fencing, affording views in and out of the application site. The site is relatively flat and predominantly laid to grass.
- 1.05 Outline planning permission was granted for up to 9 dwellings in 2016.

2. PROPOSAL

- 2.01 The application seeks approval of the reserved matters not considered at outline stage, these being, layout, scale, landscaping and appearance.
- 2.02 The proposal is for 9no detached residential dwellings.
Layout
- 2.03 Means of access from the highway was approved as part of the outline stage. The proposed layout would utilise this access point from Chartway Street and would

create a linear access drive through the centre of the site which would serve the new dwellings, together with the existing dwelling at Wind Chimes to the south of the site.

- 2.04 7 private accesses would be taken off the internal road, 5 would serve individual dwellings and the other 2 would serve 2 dwellings.
- 2.05 2 dwellings would be orientated north/south and face towards Chartway Street. The other 7 dwellings would be orientated east/west, with the frontages facing towards the internal access road.
- 2.06 Each dwelling would benefit from a surfaced driveway and would have either a single or double garage which would be either detached, integral or link detached.
- 2.07 Each dwelling would have a private enclosed garden and would be predominantly 2-storey.

Scale

- 2.08 Nine detached dwellings are proposed, these would all be 2-storey and would have eaves heights between approximately 4.4m-5.1m, with ridge heights of between approximately 8.3m-9.3m.
- 2.09 The dwellings would be a mix of 3, 4 and 5 bedroomed units.

Landscaping

- 2.10 The site currently benefits from 'buffer' planting along the northern and western boundaries. This is approximately 10m deep on the North Street frontage and approximately 13m deep fronting Chartway Street. This is proposed to be retained with the application accompanied by a tree survey report. Condition 4 of the outline consent requires the submission of a woodland management plan to secure the long-term retention of this planting.
- 2.11 Hedge planting is proposed along the eastern boundary, together with tree planting which would consist of silver birch, oak and sweet cherries.
- 2.12 Planting within the site would consist of hedges demarcating boundaries to the side and rear, together with frontage and 'street trees and shrubs' consisting of field maples, cherries and lavender.
- 2.13 The landscaping strategy plan and landscape planting plan also identifies methods to promote biodiversity enhancement (as required by condition 3 of the appeal decision). The plan identifies the provision of log piles to the woodland area around the perimeter of the site, together with bat and bird boxes. Bat and bird boxes would also be attached to the dwellings as shown on the site context plan. Hedgehog movements would also be made possible with gaps under fencing.

Appearance

- 2.14 The nine dwellings would be individually designed with a contemporary appearance utilising varied roof pitches, materials and fenestration. The palette of materials would be consistent across the development, consisting of wooden cladding, PV roof tiles, aluminum windows, facing brickwork and white render.

3. POLICY AND OTHER CONSIDERATIONS

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

Maidstone Borough Local Plan 2017 Policies SS1, SP17, SP19, DM1, DM2, DM3, DM12 and DM30

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Six representations (two objections and four in support) received from local residents raising the following (summarised) issues

Objections

- No provision to extend footpath eastwards (objector owns land to the east)
- Impact on overstretched infrastructure
- Erosion of countryside
- Traffic survey is out of date, 5 years old
- Concerns about the legitimacy of the applicant

Support (letters of support received from the current land owner and residents of Kingswood)

- Well planned development
- Supports the needs of Sutton Valence
- The mix and varied materials proposed are in keeping with surrounding area
- Revised scheme is more favourable with softer boundaries and improved landscaping
- No negative impact on traffic
- Likely to increase house values
- Proposed widening of road favoured
- Modest development in keeping with area

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

5.01 Sutton Valence Parish Council

1. The issue of the external landscaping that abuts the A274 and Chartway Street has still not been addressed. More specifically ownership and maintenance. On the plans it states that it is a public verge, this is not the case it is within the boundary of the application. There needs to be a condition placed on this development that covers the landscape maintenance.

2. The Parish Council would like to see condition that the tree/hedge line should be retained in perpetuity to ensure the current street scene of North St and Chartway Street is maintained.
3. The Parish Council believe that the dropped kerb at the existing access point should be removed.
4. The Parish Council is concerned that the public verge and fencing does not continue on the East side of plot 3.

5.02 Kent Police
Recommends higher boundary treatment

5.03 KCC Highways
Following amended plans and additional information

Now consider that the reserved matters proposed within the site, in highways terms are acceptable. Applicant needs to consider wheel washing, highways matters relating to construction and condition 11 of the outline consent relating to a S278 application.

5.04 Natural England
No comments

5.05 Southern Water
No objection

5.06 Landscape Officer

With regards to the above application, the submitted tree protection details and proposed landscaping for the site (both supplied by LaDellWood) are considered acceptable.

No details submitted for conditions 4 and 14.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Principle of development
- Reserved Matters details (Layout, Scale, Appearance, Landscaping)
- Residential amenity
- Highways matters
- Other matters

Principle of development

6.02 The application site benefits from an extant outline consent for residential development for up to 9 dwellings. This consent was granted on 9 December 2016 by the Planning Inspectorate following the refusal of application 15/507493/OUT.

This approval reserved all matters (layout, scale, appearance and landscaping), other than access which was approved as part of the outline consent.

- 6.03 Due to the extant outline consent the principle of residential development on the site remains and it is solely now for considerations as to whether those matters reserved are considered acceptable.
- 6.04 This application is a re-submission of an earlier withdrawn scheme, the key changes to this scheme include greater landscaping along the eastern boundary of the site, further landscaping details, reduced scale of some of the larger units (including the removal of flat roofs at roof apexes), provision of refuse turning and greater detail of materials, biodiversity enhancements, tree protection and layout changes to improve future residential amenity.

Reserved matters details

- 6.05 The Inspectors decision sets out some key points in considering the acceptability of developing the site for residential development, these include:

'Whilst some degree of urbanisation would inevitably result from the proposed development through buildings, hardstanding and the access road the visibility of the site at the junction would not be material reduced as the boundary screening would be largely maintained. The removal of some trees on the Chartway Street frontage would be necessary to create the new access but subject to a suitable landscaping scheme the proposed access would not have an adverse visual impact. Consequently, the proposed development would have limited impact on this visual break in the existing built form.' (Paragraph 11)

'Additionally, with no more than nine dwellings the density of development would be low and not out of keeping with the immediate setting or harmful to the character of the countryside.' (Paragraph 12)

'The introduction of woodland planting on the eastern boundary could be secured through conditioning of the landscape strategy. This would ensure that the impact of the proposed development when viewed from outside of the site, and particularly from the public right of way would be limited. Consequently, with existing and proposed screening the visual impact of the proposed development would be acceptable.' (Paragraph 13)

- 6.06 An indicative layout was submitted at outline stage which demonstrated that 8no. dwellings could be accommodated on the site, albeit the consent was granted for up to 9 units. This indicative layout followed a similar layout pattern to the scheme now proposed, whereby a central access through the site would facilitate access to dwellings facing either towards Chartway Street or internally towards the access road. This indicative layout also included retention of the woodland planting along the northern and western boundaries, together with planting along the eastern boundary and the provision of turning within the site for refuse vehicles. The Inspector in his decision did not explicitly refer to this plan, as it was not for consideration but would have been aware of it and it would be usual practice to address any concerns with the plans when determining the appeal.
- 6.07 The site occupies a prominent corner site, whereby there are two frontages one onto North Street and one onto Chartway Street. Both street scenes are varied with a mix of bungalows, chalet bungalows and 2-storey properties, together with commercial buildings and a mix of newer and older buildings. The proposed development would be seen in context of both these street frontages, but also as its own entity due to the nature of screening along the road frontages and the inwards looking nature of the development.

- 6.08 The main constraint when designing the layout for this site is the retention of access to the existing dwelling at Wind Chimes to the south of the site. This property currently benefits from an access track from Chartway Street which dissects the site north to south. The existing access is situated to the east of the proposed access from Chartway Street (as approved by the outline consent) and it is proposed that there would be a new internal road which would mirror the north to south layout of the existing access. From this access seven of the proposed dwellings would face inwards towards the road and two would face northwards towards Chartway Street and be served by a private driveway.

Appearance

- 6.09 The design of the proposed dwellings would be individual and although not a pastiche of Kentish vernacular would introduce a common palette of materials and design elements to provide a cohesive form of contemporary design. The dwellings would all be two-storey, the height of the dwellings varies slightly but within the wider street scene this would not be a discernible difference. The mix of roof pitches, fenestration and materials would allow for a visually varied appearance that would enable the development to be cohesively drawn together by landscaping and external finishes.

Landscaping

- 6.10 The proposed landscaping takes into consideration the comments made by the Inspector at appeal and retains the important screening to the road frontages, together with providing landscaping along the eastern boundary and within the site. It is considered that the proposed development takes advantage of the opportunities and constraints of existing landscaping and provides a development which would be acceptable in terms of landscaping and is supported by the tree/landscape officer.
- 6.11 The Parish Council has raised concerns regarding the long-term ownership and maintenance of the existing boundary planting. Condition 4 of the outline consent does require the submission of a woodland management plan, which should include details for the long-term retention and enhancement of the wooded eastern and northern boundaries. The condition however does not specifically address the matter of ownership. The submitted landscaping and site plan does demarcate this wooded area to be outside the curtilage of the plots, however to strengthen this and to ensure this in perpetuity it is considered necessary to attach a condition requiring details of land ownership and for this area to be outside the curtilages of the dwellings.
- 6.12 To further ensure that the landscaping along the eastern boundary provides the soft landscape screening considered necessary to satisfactorily assimilate the development with its setting and preserve views from the Public Right of Way to the east of the site it is considered that the maintenance of this boundary hedge at a height of 2.5m should be conditioned.
- 6.13 The landscaping plan and strategy also identifies methods for the enhancement of biodiversity (as identified in the proposal section above), as required by condition 3 of the outline consent. The details submitted are considered satisfactory such that the plans are acceptable to discharge this condition through this reserved matters application.

Scale

- 6.14 The Inspector did not consider it necessary that the scale of the development should be conditioned with parameters and commented that development on the site would not be visually harmful with nine dwellings being a reasonable density for the site.

As highlighted above, the street scenes along the A274 and Chartway Street are mixed, in the immediate vicinity there is a greater number of bungalows/chalet bungalows, however these are interspersed with 2-storey dwellings. The application site itself is generally flat, whereby the new dwellings would not be significantly elevated when compared to neighbouring properties and due to the enclosed nature of the site with the wooded boundaries the dwellings to some extent would be seen in their own context rather than compared to neighbouring properties. The cohesive design, lack of neighbouring dwellings to the immediate east and the road separation to the north are such that the 2-storey design is considered acceptable.

Layout

- 6.15 The proposed layout makes best use of the site and its constraints without visual harm to the character or visual amenity of the area. The site satisfactorily accommodates the proposed nine dwellings, enabling them to all benefit from private amenity space, car parking and suitable access/turning. The amenity (as discussed in further detail below) of the future occupiers would be acceptable. The layout has been slightly amended from the withdrawn submission to orientate all the dwellings to the west of the site internally, which although this would not be acceptable in all situations, in this enclosed site this would appear logical and two dwellings would still orientate towards Chartway Street allowing for there to be some context to the dwellings and relationship with the street scene.
- 6.16 Overall the proposed development in terms of those matters reserved, scale, layout, appearance and landscaping would be acceptable and would not harm the visual amenity of the street scene, character of the area and would result in a well designed development.
- 6.17 To ensure that the development remains of a satisfactory appearance and to not add undue additional pressures on the surrounding planting it is considered reasonable to remove permitted development rights for extensions, outbuildings and fencing, with fencing details to be conditioned to submit details (indicative details are shown on the submitted plans, which would consist predominantly of post and rail stock fencing).

Residential amenity

Existing occupiers

- 6.18 The nearest residential properties are to the south of the site (Grey Walls and Wind Chimes). Those to the north (Warmlake End and Windflowers) are considered to be a significant distance away from the proposed development due to the separation of Chartway Street. Similarly, the property to the east (East Went) is separated by a field access and approximately 40m from the nearest proposed dwelling such that no significant harm would result to neighbouring amenity.
- 6.19 The nearest proposed units to the south would be plots 6 and 5, there would be an approximate 30m separation between the dwellings themselves and approximately 6m to the boundaries. The side elevations of Plots 5 and 6 would have first floor windows serving the staircase, this would be vaulted into the ceiling, with glazing in both the flank wall and roof. Due to the non-habitable nature of the area that the windows would serve and the nature of the level changes of the staircase, it is not considered that there would be undue overlooking or harm from these windows.
- 6.20 It is not considered that the new dwellings would result in harm by reason of being unduly overbearing, overshadowing or cause loss of light due to their proposed siting, design and orientation.

Future occupiers

- 6.21 The scheme has been designed to ensure that each dwelling would benefit from private amenity space and has been oriented and designed to ensure that no dwelling would have an adverse impact on future neighbouring occupiers. Windows, balconies and other fenestration would not cause undue overlooking or loss of privacy to neighbouring occupiers, nor would the dwellings be unduly overbearing or overshadowing to each other.
- 6.22 It is considered that the development would provide a satisfactory amenity for the future occupiers.

Highways matters

- 6.23 Matters relating to access were approved at outline stage, together with improvements to the footpath link from the site to the existing footpath on the corner of Chartway Street and the A274. Details of which are to be approved through a S278 highways application and are conditioned by condition 11 of the outline approval.
- 6.24 Condition 6 of the outline permission requires the reserved matters application to show adequate land for parking or garaging and Condition 7 requires the application to show adequate land for vehicle loading/unloading and turning to meet the needs of the development.
- 6.25 KCC Highways are satisfied that the development provides adequate land for both parking, loading/unloading and turning. Each dwelling would benefit from a private drive, together with garaging and the layout shows a turning head within the site for a refuse vehicle, together with swept path analysis to demonstrate that the vehicle could practicably turn.
- 6.26 The Highways Officer has drawn attention to the need for reasonable attempts to prevent mud on the road and details of construction vehicles parking and turning. These matters are dealt with by condition 8 of the outline which requires details prior to commencement of development.
- 6.27 Overall it is considered that highways matters are satisfactorily dealt with through this application and those conditions attached to the outline approval.

Other Matters

- 6.28 Matters relating to biodiversity enhancement, archaeology, drainage, renewable energy, tree protection, long-term management of the woodland planting along Chartway Street and the A274 and arboricultural method statements are all conditioned on the outline consent with details required to be submitted either prior to commencement of development or before occupation. Indicative details have been provided which include the use of PV solar roof tiles,
- 6.29 The Parish Council has raised concerns regarding the development being gated from Chartway Street. The agent has confirmed that the development would not be gated, the visualisation indicating gates is those to serve Wind Chimes to the south of the site.

- 6.30 The proposed development would have been CIL liable, since the Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. However, the application was approved at outline prior to the introduction of CIL and the application is subject to a Unilateral Undertaking to provide contributions towards education, libraries and off-site affordable housing.

PUBLIC SECTOR EQUALITY DUTY

- 6.31 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The application site benefits from outline permission for the erection of up to 9 dwellings on the site, such that the principle of residential development has been established. The proposed scheme for 9 dwellings is considered to be acceptable in terms of the reserved matters scale, appearance, layout and landscaping such that the development would not cause undue harm to the visual amenity of the street scene and character of the area, to existing or future residential amenity and would be acceptable in terms of highways impacts and all other material planning considerations such that the proposed development would be in accordance with current policy and guidance.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawing No. 8884 01 Rev B (Site Plan)
 - Drawing No. 8884 14 Rev B (Site Plan context)
 - Drawing No. 8884 03 Rev A (Plot 1 Floor Plans and Elevations)
 - Drawing No. 8884 04 Rev A (Plot 2 Floor Plans and Elevations)
 - Drawing No. 8884 05 Rev A (Plot 3 Floor Plans and Elevations)
 - Drawing No. 8884 06 Rev A (Plot 4 Floor Plans and Elevations)
 - Drawing No. 8884 07 Rev A (Plot 5 Floor Plans and Elevations)
 - Drawing No. 8884 08 Rev A (Plot 6 Floor Plans and Elevations)
 - Drawing No. 8884 09 Rev A (Plot 7 Floor Plans and Elevations)
 - Drawing No. 8884 10 Rev A (Plot 8 Floor Plans and Elevations)
 - Drawing No. 8884 11 Rev A (Plot 9 Floor Plans and Elevations)
 - Landscape Strategy
 - Landscape planting plan
 - Tree Survey ReportReason: To clarify which plans have been approved.
- 2) The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be

carried out in accordance with the approved details before the first occupation of the building and maintained thereafter;

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

- 3) The development hereby approved shall not commence above slab level until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

- 4) Prior to first occupation all planting, seeding and turfing specified in the approved landscape details shall be completed. All such landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

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

- 5) The development hereby approved shall not commence above slab level until details of the land ownership of each plot have been submitted to and approved in writing by the Local Planning Authority. These details shall show the northern and western boundaries (the boundary woodland buffer) and include details of the extent of the buffer area and shall show the woodland outside the ownership of each individual plot including its long term management. Such details as agreed shall maintained as such.

Reason: To maintain the integrity of the woodland screen to these boundaries.

- 6) The proposed mixed native hedge identified on drawing number 0240/19/B/11 (Landscape planting plan) to the eastern boundary shall be allowed to grow to a height of 2.5m and then shall thereafter be maintained at a height of no less than this height (2.5m).

Reason: To protect local amenity and views from the Public Right of Way

- 7) No further development, whether permitted by Classes A, B, C, D or E of Part 1 and Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out to the dwellings hereby approved.

Reason: In the interests of the amenities of the area and to protect adjacent tree planting from further undue pressure

INFORMATIVES

- 1) The applicant's attention is drawn to the conditions attached to application 15/507493/OUT and the need to discharge the details prior to commencement and/or occupation.
- 2) The details shown on Drawing Number 0240/19/B/11 (Landscape planting plan), 8884 14 Rev A (Site Plan (context)) and 0240/19/B/1 (Landscape strategy) are considered sufficient to discharge Condition 3 of application 15/507493/OUT) and is hereby approved.

Case Officer: Rachael Elliott

Appeal Decision

Hearing held on 2 November 2016

Site visit made on 2 November 2016

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 9 December 2016

Appeal Ref: APP/U2235/W/16/3145575

Wind Chimes, Chartway Street, Sutton Valence, Kent M17 3JA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Vincent Woodcock against the decision of Maidstone Borough Council.
 - The application Ref 15/507493/OUT, dated 9 September 2015, was refused by notice dated 15 February 2016.
 - The development proposed is described as outline application for residential development.
-

Decision

1. The appeal is allowed and outline planning permission granted for residential development of up to nine dwellings considering access from Chartway Street with all other matters (appearance, landscaping, layout and scale) reserved for future consideration at Wind Chimes, Chartway Street, Sutton Valence, Kent M17 3JA in accordance with the terms of the application Ref 15/507493/OUT, dated 9 September 2015, subject to the conditions in the schedule at the end of the decision.

Application for Costs

2. An application for costs was made by Mr Vincent Woodcock against Maidstone Borough Council. This is the subject of a separate decision.

Procedural Matters

3. During the determination of the application a revised description was agreed between the appellant and the Council. I have used this in my formal decision as I consider that this more accurately describes the proposed development.
4. The application was submitted in outline with only means of access to be determined at this stage. Appearance, landscaping, layout and scale are reserved for subsequent consideration.
5. A signed and dated Unilateral Undertaking (UU) in accordance with Section 106 of the Town and Country Planning Act, 1990 was submitted by the appellant prior to the hearing. This contains obligations in respect of affordable housing and contributions towards libraries and education. I return to the obligations later in my decision.

Main Issues

6. The main issues are:
 - a) The effect of the proposed development on the character and appearance of the area; and
 - b) Whether or not the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and the supply of housing.

Reasons

Character and Appearance

7. The appeal site is located at the junction of North Street to the west of the site and Chartway Street to the north. On both of these boundaries there is a well-established tree belt although the site is visible from breaks in the trees on Chartway Street. One of these breaks is formed by the existing access to the site whilst a second break marks the location of the proposed access. Glimpses of the site are also possible from further east on Chartway Street.
8. The eastern boundary of the site is marked by wooden post fencing which allows views out of and into the site from the public right of way which runs north-south approximately 100m to the east beyond an arable field.
9. Outline planning permission is being sought for up to nine dwellings. Some off-site highways works are also proposed to the west of the proposed access in order to widen Chartway Street, extend the existing footway and relocate the existing bus stop westwards.
10. The Warmlake area of Sutton Valence has seen development approved on a number of sites recently particularly to the north of the appeal site. Approaching the site from the north, along Maidstone Road demonstrates that there is no clear break in development apart from the appeal site. The appeal site is the only undeveloped quadrant of the Warmlake crossroads and because of its corner location it has some prominence. At its western end, Chartway Street has a residential character with houses to the north and east of the appeal site. Whilst the sites to the west, namely Warmlake Nursery and Warmlake Place, are not densely developed the presence of development does demonstrate that the site is not situated in open countryside.
11. Whilst some degree of urbanisation would inevitable result from the proposed development through buildings, hardstanding and the access road the visibility of the site at the junction would not be materially reduced as the boundary screening would be largely maintained. The removal of some trees on the Chartway Street frontage would be necessary to create the new access but subject to a suitable landscaping scheme the proposed access would not have an adverse visual impact. Consequently the proposed development would have limited impact on this visual break in the existing built form.
12. In terms of depth the site would not extend eastwards much beyond the depth of other properties on North Street. The proposed development would consolidate the existing pattern of frontage development along Chartway Street but would not result in an extension of built form into open countryside. Development would infill the existing linear development along North Street

and Chartway Street but would be closely related to existing development. Additionally, with no more than nine dwellings the density of development would be low and not out of keeping with the immediate setting or harmful to the character of the countryside.

13. The introduction of woodland planting on the eastern boundary could be secured through conditioning of the landscape strategy. This would ensure that the impact of the proposed development when viewed from outside of the site, and particularly from the public right of way would be limited. Consequently, with existing and proposed screening the visual impact of the proposed development would be acceptable.
14. Policy ENV28 of the Maidstone Borough Wide Local Plan, 2000 (the MWBLP) states that within the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers subject to a number of exception, none of which cover the proposed development. Whilst the proposed development would not cause harm to the character and appearance of the area, being development outside of the development boundary for Sutton Valence would bring it into conflict with Policy ENV28. It would also conflict with Policy SP17 of the Maidstone Borough Local Plan, May 2016 (the MBLP) which similarly seeks to protect the character and appearance of the open countryside and restrict new development identifying the provision of small scale residential development to meet local needs as an exception.
15. According to the Maidstone Landscape Character Assessment, 2012 the appeal site lies within the Kingswood Plateau. On the basis of my findings in respect of character and appearance I do not consider that the proposed development would result in material harm in respect of landscape character or be contrary to the Landscape Character Assessment which includes the aim to maintain open space between swathes of development.
16. With regard to the National Planning Policy Framework (the Framework) I find that the proposal would not be in conflict with paragraph 58 which requires developments to respond to local character or paragraph 61 which seeks to ensure that development is integrated into the environment.

Suitability of the Site for Housing

17. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. Where relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
18. Paragraph 47 of the Framework advises that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed need (OAN) for housing and can demonstrate a supply of specific deliverable sites sufficient to provide more than five years' worth of housing against this need. At the time when the application was determined by the Council its position was that it had a 3.3 year supply of housing assessed against the OAN of 18,560.
19. The MBLP is currently progressing through its examination. Based on the OAN figure and a 5% buffer the Council indicated that it now had a supply of 5.12

- years. This was set out in depth in the Council's Housing Topic Paper which has a base date of 1 April 2016 which accompanied the MBLP submission. The appellant is of the view that the Council can only show a 4.48 year supply.
20. Paragraph 49 of the Framework also states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Policy ENV28 of the Local Plan seeks to restrict development outside of defined settlement boundaries and is therefore relevant to the supply of housing. However, on the basis of its MBLP submission the Council considers that housing policies could be considered up to date.
 21. Paragraph 216 of the Framework advises that the weight to be given to emerging plans is dependent upon their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of relevant policies in the emerging plans to the policies in the Framework. Whilst the plan is at an advanced stage of preparation I understand that there are significant unresolved objections to a number of policies including Policy SP17 which mirrors the adopted Policy ENV28. The MBLP is also subject to challenge in terms of the Council's OAN.
 22. In terms of five year housing land supply the Council case as set out in the original Housing Topic Paper totals 6,896 dwellings comprising extant permissions of 4260 dwellings, proposed allocations in the MBLP of 2540 and 96 dwellings on windfall sites. At the hearing the Council provided an update to its Housing Topic Paper dated 1 September 2016 showing an increase in five year housing land supply to 5.71 years. However, this document has not been subject to the full review provided by the local plan examination and therefore it too must be treated with caution.
 23. The OAN has yet to be fully tested through the local plan process and this figure is fundamental to the determination of whether supply addresses housing need. With regard to the buffer, whilst the appellant argued that this should be 20% on the basis of a persistent record of under delivery I am not convinced by this argument. During the first two years of the plan period when the South East Plan was the relevant development plan the target was exceeded and taking account of longer terms housing market cycles I consider that a persistent record of under delivery has not been demonstrated and so a 5% buffer is reasonable.
 24. The evidence I heard at the hearing leads me to conclude that in a number of cases the Council has over-estimated the capacity of its allocations as the permission granted was significantly below the identified allocation. This leads to doubts about the capacities of other sites to meet their allocation. As these allocations have yet to be fully tested through the local plan examination it is far from clear that all of the proposed allocations would be deliverable.
 25. On behalf of Warmlake Residents Association it was argued that the windfall sites contribution was too low and that an allowance for small sites should be made in each of the first five years together with a large site windfall figure. The Council's approach which avoids double counting sites with planning permission and the assumption that fewer large windfall sites will come forward

as they are likely to have already been allocated is both reasonable and in line with the Framework.

26. Consequently I find that the Council cannot demonstrate a five year supply of deliverable housing sites. Therefore, as Policy ENV28 of the MBWLP and Policy SP17 of the MBLP are relevant policies for the supply of housing they are out of date and so little weight should be given to the fact that the appeal site is located in the countryside. Additionally, having regard to the provisions of paragraph 49 of the Framework, the need for housing weighs in favour of the proposal.
27. On the basis of paragraph 7 of the Framework it is necessary to consider whether the proposed development would address the economic, social and environmental roles of sustainable development. The proposed development would contribute to the economic role as house building promotes economic growth through construction activity and future occupiers of houses would provide custom for existing shops and services in Sutton Valence.
28. In terms of the social role the provision of up to nine houses would make a modest contribution towards meeting housing need within the borough and would meet the Framework requirement to boost housing supply. The site is also reasonably accessible to Sutton Valence on foot and bus services to Maidstone can be accessed from bus stops at the Warmlake crossroads.
29. I have found that the proposals would not be harmful to the character and appearance of the area and I have identified no other environmental harms. Consequently the environmental role of sustainable development would be met.

Other Matters

30. Concern was expressed by many residents in writing and at the hearing that the proposal would result in a danger to highway users. However, the access and off-site highway works would be in accordance with the relevant technical standards and have been accepted without objection from the highway authority, subject to a number of conditions. In the absence of substantive evidence to the contrary, I have no reason to disagree with that view.
31. On behalf of Warmlake Residents Association it was suggested that the density of the proposed scheme was low and that subsequently a higher density scheme could be proposed which would create additional traffic. However, that is not the scheme before me and if such proposals were to emerge they would need to be considered as part of a fresh application.
32. Other concerns raised in representations including air quality, pollution, noise and disturbance have not been substantiated through evidence and therefore provide no reason to dismiss the appeal. Concerns about drainage can be addressed through an appropriately worded planning condition.

Conditions

33. The Council suggested a number of conditions to be imposed were I to allow the appeal. These were discussed with the main parties at the hearing and I have also had regard to the conditions in the light of the Framework and Planning Practice Guidance (PPG).

34. A condition relating to the submission of reserved matters and the timing of commencement is needed due to the outline nature of the application (Condition 1). A condition is necessary to address the potential archaeological interest in the site (2) as are conditions to address the biodiversity and woodland of the site (3 and 4). Condition 5, relating to external lighting is necessary in order to protect the appearance of the area and to limit the impact of lighting on the wider environment.
35. Conditions 6 and 7 are necessary to address the layout of the scheme submitted under condition 1 and to ensure that the parking and manoeuvring of vehicles is not detrimental to other road users or amenity. However, I have amended these conditions to remove those elements which would have restricted permitted development rights as PPG states that such conditions should not normally be imposed. The elements I have deleted would not meet the tests of necessity or reasonableness.
36. Conditions are also required in order to address matters of highway safety during the construction phase (8) and when operational (9 and 11). It is also necessary to impose a condition to ensure that the existing vehicular access to the site is removed in the interests of the appearance of the area (10). Conditions are also required to ensure appropriate arrangements for sustainable water management (12) and to protect the existing trees in the interests of amenity (13 and 14). I have amended the proposed condition relating to energy efficiency as this does not directly relate to the reserved matters (15). The condition is necessary in the interests of sustainability. Finally, a condition specifying the relevant plans is required as this provides certainty (16).
37. It is not necessary to have conditions relating to the materials to be used in construction or to address landscaping details as these would be dealt with at reserved matters stage or to specify that no surface water shall discharge onto the public highway as this would not meet the tests of enforceability and in any event can be addressed through condition 12.
38. PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for conditions 2, 3, 4, 8, 9, 12, 13 and 14 to be conditions precedent as they are so fundamental to the development that it would otherwise be necessary to refuse the application.

Planning Obligations

39. The appellant has undertaken to contribute £2360.96 per dwelling for the provision of educational needs arising from the proposed development and £48.02 per dwelling in respect of a library contribution. On the basis of Kent County Council's comments I am satisfied that the contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development and therefore consistent with Policy CF1 of the Local Plan and Regulation 122 of the Community Infrastructure Levy Regulations, 2010 (as amended). Whilst, PPG states that tariff-style contributions should not be sought from developments of 10 dwellings or less, as the gross floor area is likely to exceed 1000sq.m the criteria for seeking contributions would be met. The contributions are also in line with pooling restrictions as set out in Regulation 123 which requires

obligations to relate to projects where fewer than five contributions have already been provided. On this basis I find the contributions towards education and library provision to be acceptable.

40. The UU also makes provision for 40% of the housing to be affordable. This would be in line with the guidance as set out in PPG and with Policy AH1 of the Local Plan and the Council's Affordable Housing SPD because the site area exceeds 0.5ha and the gross floors area would be likely to exceed 100sq.m notwithstanding the fact that the number of units would be less than 10. On this basis the provision of affordable housing is appropriate.

Conclusion

41. The proposal would result in development outside of the defined settlement boundary in conflict with Policy ENV28 of the MBWLP and Policy SP17 of the MBLP. However, these are policies for the supply of housing and are not up to date. I have found that in other respects the proposed development would accord with development plan policies and the provision of housing would be a clear benefit in the light of the Framework aim to boost significantly the supply of housing. I have also concluded that the development would meet the three dimensions of sustainable development as set out in the Framework. These are very significant considerations that are sufficient to outweigh the limited conflict with Policies ENV28 and SP17 in this case.
42. For these reasons, and taking into account all matters presented in evidence and raised at the hearing, I conclude that on balance the appeal should be allowed.

Kevin Gleeson

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Peter Court	Peter Court Associates
Tom La Dell	La Dell Wood
Heather Sargent	Landmark Chambers

FOR THE LOCAL PLANNING AUTHORITY

Rachael Elliott	Maidstone Borough Council
Stuart Watson	Maidstone Borough Council

INTERESTED PARTIES

Paul McCreery	PMC Planning, on behalf of Warmlake Residents Association
Eileen Riden	Chairman, Sutton Valence Parish Council
Janet Burnett	Clerk, Sutton Valence Parish Council
Paul Burnett	Neighbouring Resident
Patricia Trodd	Neighbouring Resident
Simon Green	Neighbouring Landowner

DOCUMENTS SUBMITTED AT THE HEARING

1. Housing Topic Paper Update 1 September 2016, submitted by the Council.
2. Supplementary Statement by Paul McCreery.
3. Up to date Position on the Threat of Urbanisation, submitted by Paul McCreery.
4. Housing Sites Assessment – Site 9 and Site 3, submitted by Paul McCreery.
5. Letter from Simon Green to The Planning Inspectorate dated 1 November 2016.
6. Statement of Common Ground.
7. Costs application submitted by the appellant.

DOCUMENTS SUBMITTED AFTER THE HEARING

8. Details of Warmlake Residents Association submitted by Paul McCreery.

9. Extract from Landscape Character Appraisal, 2012 submitted by the Council.
10. Council's response to appellant's cost application.

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Application (s) for approval of all 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 on or before the expiration of two years from the date of approval of the last of the reserved matters.

2. Prior to development commencing a programme of archaeological works in accordance with a written specification and timetable shall have been submitted to and approved in writing by the Local Planning Authority. No development shall take place other than in accordance with the programme and written specification.
3. 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 permanently thereafter.
4. Prior to development commencing, a woodland management plan for the site shall have been submitted to and approved in writing by the Local Planning Authority. This shall include details of the long-term retention and enhancement of the wooded western and northern boundaries of the application site. It shall be implemented in accordance with the approved proposals within it and shall be maintained permanently thereafter.
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.

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. 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, permanently thereafter.
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. The approved area shall be provided, surfaced and drained in accordance with the approved details before the buildings are occupied and shall be retained permanently thereafter.
8. Prior to development commencing the following shall be submitted to and approved in writing by the Local Planning Authority:

Details of facilities, by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances at the application site. The approved facilities shall then be provided prior to the works commencing on site and thereafter shall be maintained in an effective working condition and used before vehicles exit the site and enter onto the adopted highway for the duration of the construction works;

Details of construction vehicle loading/unloading and turning facilities; and

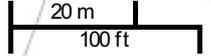
Details of parking facilities for site personnel and visitors during construction phase.

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

9. Prior to development commencing, the proposed new access shall be provided and the area of land within the vision splays shown on the approved plan shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway and be so retained in accordance with the approved plan.
10. Prior to occupation of the first dwelling, the existing vehicular access from Chartway Street shall be blocked up and landscaped in accordance with the details submitted and approved as part of the landscaping scheme.
11. Prior to development reaching damp proof course level the applicant shall enter into a Section 278 Agreement with the highways authority for works to include closure of the existing access, localised road widening, establishing visibility splays and construction of new access, footway and kerbing details including a step free raised border at the bus stop where suitable. All approved works, including any diversions of statutory undertakers' equipment, and necessary signage and restrictions shall be completed prior to the occupation of any part of the development in accordance with a copy

of the approved agreement for works that shall have been previously submitted to and approved by the Local Planning Authority.

12. Prior to development commencing a scheme for the disposal of (a) surface water (which shall in the form of a SUDS scheme) 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.
13. 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 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.
14. Prior to development commencing an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837:2012 shall have been submitted to and approved in writing by the local planning authority. This shall include details such as the positions of any service/drainage runs and any access facilitation pruning requirements.
15. Details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to occupation of the first dwelling. The development shall be implemented in accordance with the approved details and all features shall be maintained permanently thereafter.
16. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Ecology Phase 1 Habitat Survey
 - Ecology Bat Activity Surveys
 - Transport Statement
 - Tree Survey Issue 2
 - Drawing number 2245/15/B/6A (Site Location Plan)
 - Drawing number 2245/15/B/5A (Site Layout) (Illustrative) - Matters relating to point of access only.



REFERENCE NO - 19/504300/FULL		
APPLICATION PROPOSAL Variation of condition 6 of 19/501536/FULL (Erection of a single storey building to provide staff accommodation/holiday let and staff training room) to allow no time restriction on staff accommodation.		
ADDRESS Wierton Hall Farm East Hall Hill Boughton Monchelsea Maidstone Kent ME17 4JU		
RECOMMENDATION Grant Planning Permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION As long as the residential use in support of Aspen Tree Services is tied to this use and for no other purpose (and which has already been conditioned), it is considered there is no objection to amending condition 6 as sought.		
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to the views of Boughton Monchelsea Parish Council		
WARD Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL Boughton Monchelsea	APPLICANT Mr & Mrs Curteis AGENT CF.Architects Ltd
TARGET DECISION DATE 05/03/20 (EOT)		PUBLICITY EXPIRY DATE 04/10/19

Relevant Planning History

- 19/501536/FULL
Erection of a single storey building to provide staff accommodation/holiday let and staff training room. Approved. Decision Date: 21.05.2019

MAIN REPORT

1. SITE DESCRIPTION

- 1.1 The application site lies immediately to the south of large corrugated iron barn used in connection with the applicant's tree surgeon business.
- 1.2 Abutting the application site to the south west is a dense tree screen while to the east is an open paddock with a public footpath running along its east boundary.
- 1.3 The application site forms part of the Wierton Hall Farm complex of buildings fronting onto an enclosed courtyard.
- 1.4 Abutting the Wierton Hall Farm complex to the west is the Grade II Listed Building Wierton Hall.
- 1.5 The Greensand Ridge landscape of local value lies to the south of the complex.

2. PROPOSAL

- 2.1 The following information was submitted in support of the original planning application:
 - The intention is to remove the existing mobile home and replace it with a small single storey building.
 - The building will have two functions – as a training room and changing area for use by Aspen Tree Services with the remainder used to accommodate employees.

- The business does not have an acceptable purpose built training facility and there is a need to keep employees up to date with latest best practice.
- Due to the difficulty in employing suitably skilled staff, Aspen Tree Services sometimes employ staff from outside the immediate locality. The accommodation will be used to accommodate staff living some distance away and also as a holiday let. Business Case:
- Aspen Tree Services employ specialist staff and as such often have to recruit from outside the local area to get suitable employees. Often employees come from outside the county of further afield - sometimes to such an extent that employees need to find accommodation away from where they live.
- There is a lack of suitable accommodation locally that can satisfy their needs.
- The additional problem involved in finding accommodation is that it is not necessarily available from local B&B's when Aspen Tree Services need to accommodate staff.
- There are 15 local Bed and breakfasts in within 3 miles which are often booked.
- The owners of Aspen tree services also have a holiday let cottage which they rent out during the year. They would like to expand this business by building an additional one bedroom cottage.
- The current accommodation is booked approximately 70% of the time and is full for the entire holiday season when rents are at their highest.
- There is a niche for additional tourist accommodation that, based on their current holiday let, will easily be filled.
- This will work in tandem with Aspen Tree Services employees as times when building will be required for tourist and business accommodation are at different times of the year.
- There are other benefits to developing this as a rural business in that tourism provides additional income to tourist attractions in the area, local builders who will construct the project and support workers as part of the longer term running of the business.
- The application has also been accompanied by an ecological survey

2.2 Condition 6 currently appended to planning permission ref: 19/501536 is worded as follows:

"Single occupation of this building as tourist/staff accommodation shall be restricted to no more than 28 days at any one time. Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted".

2.3 Consent is sought to amend the wording of the above condition so that use of the building as 'staff accommodation' can be carried out without the 28 day restriction. The 28 day restriction would still apply for the use of the building for tourist accommodation. With the amended condition reading as follows:

"Single occupation of this building as tourist/~~staff~~ accommodation shall be restricted to no more than 28 days at any one time. Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted".

2.4 The justification from the applicant for seeking this amendment is set out below:

- *Difficulty in employing suitably skilled staff locally brings with it the need to seek staff from outside the area requiring accommodation away from where they live.*
- *Though there are B&B's within 3 miles of the site these are often booked while not being sufficiently flexible to accommodate the businesses working practices.*
- *Lack of suitable on site accommodation could compromise the businesses ability to recruit and retain the right calibre of staff to the detriment of the businesses continuing ability to function viably and efficiently.*

- 2.5 The use by staff would still be restricted by condition 3 which states the building shall be used for staff training and restricts the staff accommodation to those associated with the commercial operations of Aspen Tree Services located at Wierton Hall Farm, ME17 4JU.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 DM1, DM4, SP17, DM30, DM37

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.1 One representation received from a local resident raising the following (summarised) issues: Concerned that relaxation of the condition will result in the building becoming a permanent residence.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

- 5.1 **Boughton Monchelsea Parish Council:** Objects on the following grounds:
- Condition imposed to prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.
 - See no reason why the condition should be removed or why staff need to live permanently on the site.

- 5.2 **Kent Highways:** Nature of proposal does meet consultation criteria.

- 5.3 **EHO:** No objection

6.0 APPRAISAL

Main Issues

- 6.1 Planning permission has already been granted under application ref:19/501536 (report attached as **Appendix 1**) for on site accommodation to support this rural business.

- 6.2 The key issues are therefore whether relaxation of the condition 6 will result in any
- material harm to the rural character or setting of the area,
 - harm the amenity of nearby residents,
 - adversely affect the character or setting of the nearby Listed Building or
 - bring any material change in highway terms.

Impact on the character and setting of the countryside:

- 6.3 The planning permission already granted under ref: 19/601536 means that it is already accepted that neither the building nor its use will result in demonstrable harm to the character or setting of the countryside or materially intrude into views from the public footpath to the east.

- 6.4 The purpose of condition 6 is to avoid the establishment of a permanent residential presence in an unacceptable rural location. However as long as the residential use in support of Aspen Tree Services is tied to this use and for no other purpose (and which has already been conditioned), it is considered there is no objection to amending the condition as sought.

Amenity, heritage and highway considerations:

- 6.5 It is considered the proposed change will not bring about any material alteration to the amenity of existing residents, the character or setting of the nearby heritage asset or local highway conditions contrary to the provisions of policies DM1 and DM4 of the local plan.

Wildlife:

- 6.6 Wildlife mitigation and enhancement measures have already been approved in connection with application ref: 19/501536 and these will continue to be secured in the event of planning permission being granted for this proposal.

Public Sector Equality Duty

- 6.7 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Other matters

- 6.8 The proposal needs to be 'screened' as to whether it should have been accompanied by an Environmental Impact Assessment (EIA).
- 6.9 As the site does not fall within an AONB nor does it exceed any of the Schedule 2 thresholds set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 no requirement for an EIA is identified. It should be stressed this conclusion does not imply support for the proposal or set aside the need to assess the proposal against normal planning criteria.
- 6.10 The proposed development is CIL liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

7. CONCLUSION

- 7.1 As long as the residential use in support of Aspen Tree Services is tied to this use and for no other purpose (condition 3), it is considered there is no objection to amending condition 6 as sought.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- (1) The development hereby permitted shall be begun before the 21st May 2022.

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) Prior to the development hereby approved reaching damp proof course details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved Details

Reason: In the interests of amenity.

- (3) The building hereby approved shall be used (a) for staff training and staff accommodation and (b) for tourist accommodation and for no other purposes whatsoever and only in connection with the commercial operations of Aspen Tree Services located at Wierton Hall Farm, ME174JU

Reason: To reflect the special circumstances of the application and to prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.

- (4) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained as shown on drawing no: 253(P)010 rev2 must be protected by barriers and/or

ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

- (5) The trees shown on drawing no: 253(P)010 rev2 must be retained at a height of no lower than 6 metres above ground level. Any of these trees becoming dead, dying, diseased or dangerous shall be replaced by a heavy standard specimen /s of the same species and in the same location in the first available planting season.

Reason: In the interests of visual amenity.

- (6) Single occupation of this building as tourist accommodation shall be restricted to no more than 28 days at any one time. Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.

- (7) Prior to first occupation of the development hereby approved details of a native species landscaping scheme to screen the building from views from the east shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented within the first planting season following approval. Any specimens becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the of the same size and siting.

Reason: In the interests of visual amenity.

- (8) The development hereby approved shall be carried out in accordance with the recommendations set out in paragraphs 3.1-3.3 (inc) of the preliminary ecological appraisal carried out by Brindle & Green Ecological Consultants Ltd approved as part of application ref:19/501536.

Reason: In the interests of wildlife protection.

- (9) Any external lighting installed on the site (whether permanent or temporary) in connection with the approved building or use shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the night time rural environment.

- (10) On first use of the development hereby permitted the mobile home currently occupying the site shall be permanently removed from the site.

Reason: In the interests of visual amenity.

- (11) The development hereby approved shall be carried out in accordance with the with the following approved plans being drawing nos: 253(P)001 Rev 0 , 002 rev 1, 003 rev 1, 005 rev2, 010 rev2 and 015 rev 1.

Reason: In the interests of amenity.

Informatives:

- (1) Details submitted pursuant to condition 9 above must show the use of low intensity luminaires orientated and screened to ensure that light spread is contained within the site boundaries and to avoid skyglow.
- (2) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. 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/highwayboundary-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.
- (3) The site lies within a KCC minerals safeguarding area. You should contact KCC mineral planning to see whether it wishes to comment on the proposals from this perspective.
- (4) The proposed development is CIL liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Case Officer: Graham Parkinson

APPENDIX 1

NOTES FOR TECH		
APPLICATION PROPOSAL Erection of a single storey building to provide staff accommodation/holiday let and staff training room.		Ref No 19/501536/FULL
ADDRESS Wierton Hall Farm East Hall Hill Boughton Monchelsea Maidstone Kent ME17 4JU		
RECOMMENDATION - Application Permitted		
WARD Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL Boughton Monchelsea	APPLICANT Mr & Mrs Curteis AGENT CF.Architects
DECISION DUE DATE 23/05/19	PUBLICITY EXPIRY DATE 03/05/19	

Relevant Planning History

18/500223/FULL

Variation of condition 2 of appended to planning permission ref: 11/1352 seeking retrospective consent to permit the movement of vehicles within the application site between 0600-1730 hrs Mon-Sat (currently 0700-1730 hrs Mon-Sat) but retaining restriction on no movements whatsoever on Sundays, Bank and Public Holidays.

Refused Decision Date: 09.03.2018

SITE DESCRIPTION

The application site lies above a KCC minerals safeguarding area.

The application site lies immediately to the south of large corrugated iron barn used in connection with the applicants tree surgeon business. There is currently a mobile home occupying the application site.

Abutting the application site to the south west is a dense tree screen while to the east is an open paddock with a public footpath running along its east boundary.

The application site forms part of the Wierton Hall Farm complex of buildings fronting onto an enclosed courtyard.

Abutting the Wierton Hall Farm complex to the west is the Grade II Listed Building Wierton Hall occupying a well screened and enclosed site.

To the south the complex fronts the Greensand Ridge landscape of local value.

Finally the site lies within a KCC minerals safeguarding area.

PROPOSAL:

The intention is to remove the mobile home and replace it with a small single storey building.

The following has been submitted in support:

1. The building will have two functions – as a training room and changing area for use by Aspen Tree Services with the remainder used to accommodate employees.
2. The business does not have an acceptable purpose built training facility and there is a need to keep employees up to date with latest best practice.
3. Due to the difficulty in employing suitably skilled staff, Aspen Tree Services sometimes employ staff from outside the immediate locality. The accommodation will be used to accommodate staff living some distance away and also as a holiday let.

Business Case:

4. Aspen Tree Services employ specialist staff and as such often have to recruit from outside the local area to get suitable employees. Often employees come from outside the county of further afield - sometimes to such an extent that employees need to find accommodation away from where they live.
5. There is a lack of suitable accommodation locally that can satisfy their needs.
6. The additional problem involved in finding accommodation is that it is not necessarily available from local B&B's when Aspen Tree Services need to accommodate staff.
7. There are 15 local Bed and breakfasts in within 3 miles which are often booked.

Holiday let:

8. The owners of Aspen tree services also have a holiday let cottage which they rent out during the year. They would like to expand this business by building an additional one bedroom cottage.
9. The current accommodation is booked approximately 70% of the time and is full for the entire holiday season when rents are at their highest.
10. There is a niche for additional tourist accommodation that, based on their current holiday let, will easily be filled.
11. This will work in tandem with Aspen Tree Services employees as times when building will be required for tourist and business accommodation are at different times of the year.
12. There are other benefits to developing this as a rural business in that tourism provides additional income to tourist attractions in the area, local builders who will construct the project and support workers as part of the longer term running of the business.

The application has also been accompanied by an ecological survey

POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 SP17, DM30, DM37

LOCAL REPRESENTATIONS

1 representation received which is summarised below:

13. Sceptical about the proposal but subject to the retention of the boundary trees should be sufficiently concealed.

CONSULTATIONS

PC: No objection but would like assurance that the existing mobile home will be removed from the site.

Kent Highways: Does not meet criteria triggering a response.

EHO: No objection

APPRAISAL

Key Issues:

The site is located in the countryside and the proposed development will be principally subject to the following planning considerations.

The NPPF at paragraph 83 supports the rural economy and that planning decisions should, amongst other things, enable the following types of development:

- the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- the development and diversification of agricultural and other land-based rural businesses and;
- sustainable rural tourism and leisure developments which respect the character of the countryside.

The local plan policies relevant to this proposal are summarised below:

-

Policy SP17 states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted.

- Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated and 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 reflecting the landscape character of the area.

- DM37 permits the sustainable growth and expansion of rural businesses subject to new buildings being small in scale, be integrated into the local landscape, will not harm local highway conditions or result in harm to the amenity of the area of nearby properties.

It is also necessary to assess the impact on the nearby heritage asset and the amenity of the occupants of this property.

Principle:

Employee accommodation in the countryside will only be permitted if it is demonstrated that (a) there is a business case for the type of accommodation sought and (b) there is no existing accommodation in the locality which could reasonably serve this purpose.

It is considered that given the nature of the applicants business where continued training, not least for health and safety reasons is a prerequisite and the need to attract and retain staff who are not local, that the business case has been demonstrated for the proposed training area and overnight accommodation.

It is also accepted that sufficient information has been submitted to demonstrate that there is no accommodation in the locality which could serve the same purpose.

Regarding the use of the building for tourist accommodation, it considered sufficient evidence has been submitted to demonstrate there is a need.

Given the seasonal nature of both uses it is only necessary to append a condition restricting the use of the building to the purposes specified and condition restricting days of accommodation to ensure that use as a separate dwelling does not become established.

Impact on the character and setting of the countryside:

Given the small size, appropriate low key design and well screened location of the proposed building it is considered that it will not result in demonstrable harm to the character or setting of the countryside or materially intrude into views from the public footpath to the east. However landscaping should be sought to safeguard views from the east.

To safeguard the night-time rural environment restrictions on external lighting should be secured by condition.

Trees:

Abutting and completely enclosing the south west boundary of the site is a dense tree screen of Lawson cypress and one Ash Tree. The site layout shows the building not encroaching into the RPA's and subject to a tree protection condition it is considered these trees will be retained.

The applicants arboricultural consultants advises the existing caravan will be removed and the new building sited in this location. Confirm there is concrete hard core with minimal top soil in this area, so it is highly unlikely that tree roots will have grown under the caravan.

The tree grouping located to the south of the wall is also approximately 400 mm higher than the site, further reducing the likelihood of tree roots under the site but it is intended to crown the trees to 6 metres to reduce the risk of falling trees.

This will continue to ensure that the building is screened from this direction.

Heritage considerations:

The proposed building will be largely screened by the bulk of the adjoining large building from views from Wierton Hall. No adverse impact on the character and setting the LB is therefore identified.

Amenity:

For the reasons set out above it is considered the use of the building will be carried out without harming the aural amenity or outlook of any nearby dwellings.

Highways:

No additional traffic will be generated by training/staff accommodation use. The tourist use will generate a nominal number of additional traffic movements which in the context of site having sufficient on site turning and good access will not cause any highway issues.

Wildlife:

The application site area is grassland of low ecological value but is bordered by trees and scrub. The ecological appraisal concludes the proposal will have little direct impact on protected species but recommends mitigation measures.

It is considered these are proportionate to the modest scale and impact of the proposal.

Conclusions:

This is a small scale development in support of an existing rural business which will not result in any material harm to the character and setting of the countryside, nearby heritage asset while being acceptable in its amenity, highway and wildlife impacts.

It is therefore recommended that planning permission is granted.

EIA Screening

EIA Development	No
Comments	Not Schedule 2 and not in AONB

CIL Liable – Yes

RECOMMENDATION – Application Permitted subject to the following conditions/reasons:

(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) Prior to the development hereby approved reaching damp proof course details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of amenity.

(3) The building hereby approved shall be used (a) for staff training and staff accommodation and (b) for tourist accommodation and for no other purposes whatsoever and only in connection with the operations of Aspen Tree Services located at Wierton Hall Farm, ME174JU

Reason: To retain control over the use in the interests of amenity.

(4) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained as shown on drawing no: 253(P)010 rev2 must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

(5) The trees shown on drawing no: 253(P)010 rev2 must be retained at a height of no lower than 6 metres above ground level. Any of these trees becoming dead, dying, diseased or dangerous shall be replaced by a heavy standard specimen /s of the same species and in the same location in the first available planting season.

Reason: In the interests of visual amenity.

(6) Single occupation of this building as tourist/staff accommodation shall be restricted to no more than 28 days at any one time.

Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.

(7) Prior to first occupation of the development hereby approved details of a native species landscaping scheme to screen the building from views from the east shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented within the first planting season following approval. Any specimens becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the of the same size and siting.

Reason: In the interests of visual amenity.

(8) The development hereby approved shall be carried out in accordance with the recommendations set out in paragraphs 3.1-3.3 (inc) of the preliminary ecological appraisal carried out by Brindle & Green Ecological Consultants Ltd.

Reason: In the interests of wildlife protection.

(9) Any external lighting installed on the site (whether permanent or temporary) in connection with the approved building or use shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the night time rural environment.

(10) On first use of the development hereby permitted the mobile home currently occupying the site shall be permanently removed from the site.

Reason: In the interests of visual amenity.

(11) The development hereby approved shall be carried out in accordance with the with the following approved plans being drawing nos: 253(P)001 Rev 0 , 002 rev 1, 003 rev 1, 005 rev2, 010 rev2 and 015 rev 1.

Reason: In the interests of amenity.

INFORMATIVES

(1) Lighting:

Details submitted pursuant to condition 9 above must show the use of low intensity luminaires orientated and screened to ensure that light spread is contained within the site boundaries and to avoid skyglow.

(2) Highways:

It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. 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.

(3) KCC MINERALS:

The site lies within a KCC minerals safeguarding area. You should contact KCC mineral planning to see whether it wishes to comment on the proposals from this perspective.

(4) CIL:

The proposed development is CIL liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

The Council's approach to this application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

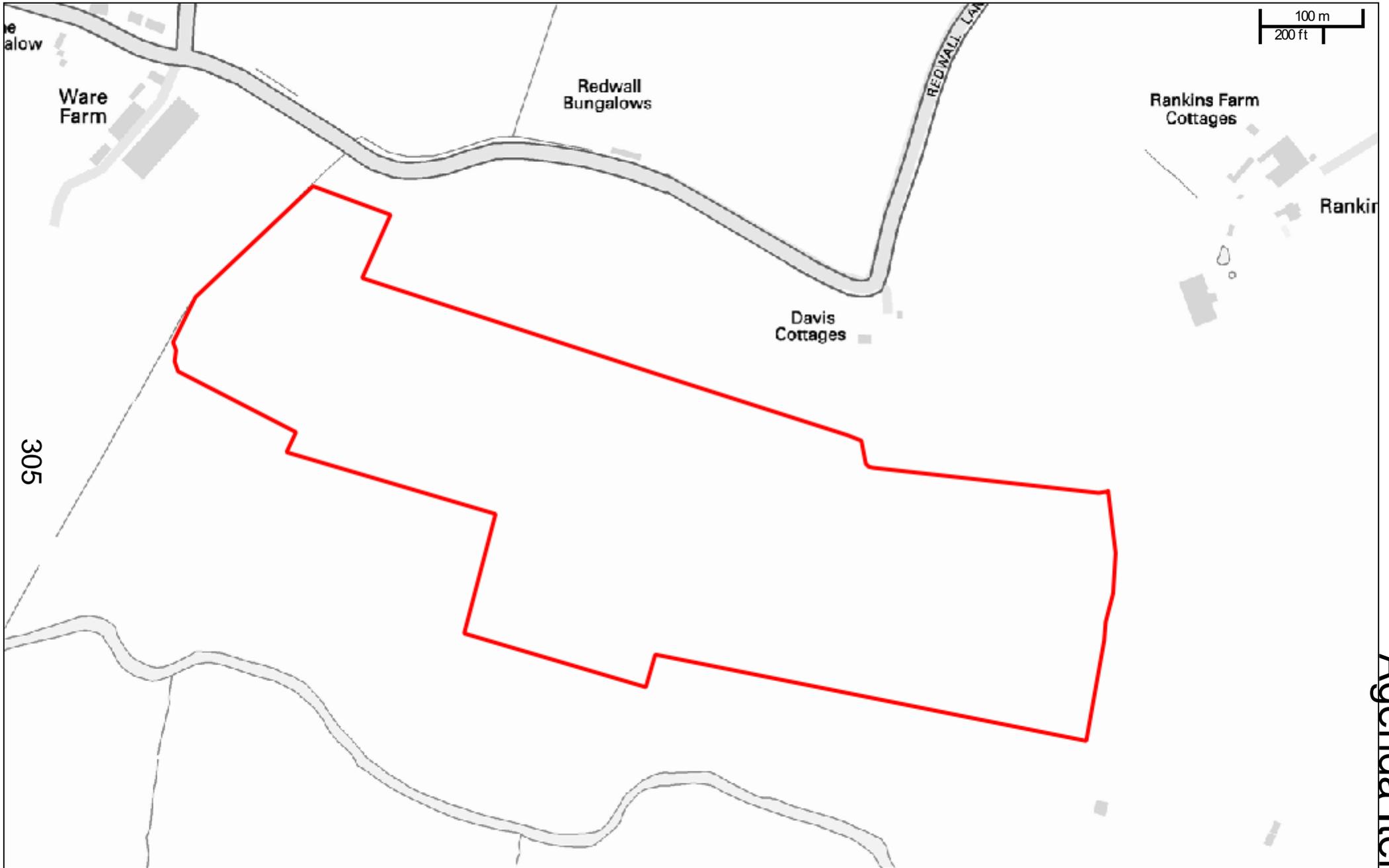
The application was approved without delay.

The applicant/agent was provided with formal pre-application advice.

There is a separate application process to discharge conditions. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

Delegated Authority to Sign:	Date:
	21.05.2019

PRINT NAME: T Ryan	
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19/505352/FULL - Land at Rankins Farm

Scale: 1:5000

Printed on: 19/2/2020 at 10:52 AM by StevieH

REFERENCE NO - 19/505352/FULL			
APPLICATION PROPOSAL Erection of polytunnels with associated soft landscaping and drainage works, including the provision of swales.			
ADDRESS Land at Rankins Farm Linton Hill Linton Kent ME17 4AU			
RECOMMENDATION Grant Planning Permission subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is justified as being essential to the continuing development and viability of this important rural business while being acceptable in in landscape, amenity, flooding, wildlife and highway impacts.			
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Linton Parish Council			
WARD Coxheath and Hunton	PARISH/TOWN Linton	COUNCIL	APPLICANT Mr O Pascall AGENT Bloomfields
TARGET DECISION DATE 05/03/20		PUBLICITY EXPIRY DATE 06/12/19	

Relevant Planning History

- 18/500214/FULL
Application for the erection of polytunnels with associated landscaping
Approved Decision Date: 10.05.2018
- 19/505068/ENVSCR
EIA Screening Opinion - Installation of polytunnels.
The land has been intensively farmed and the development is not so significant or wide ranging so as to warrant an Environmental Statement an Environmental Impact Assessment Decision Date: 29.10.2019

MAIN REPORT

1. SITE DESCRIPTION

- 1.1 The application site has an area of approximately 20 ha comprising a mainly level area of farmland located on the west side of Linton Hill to the south west of Rankins Farm and immediately abutting the western side of 10 ha of polytunnels permitted under ref: 18/500214.
- 1.2 Abutting the application site to the west is the main processing, packing and distribution centre serving this farming enterprise known as Clock House Farm.
- 1.3 In a wider context the site lies in open countryside with part of the site falling within a KCC minerals safeguarding area.
- 1.4 To the south of the site and some distance away from it is the River Beult Site of Special Scientific Interest (SSSI). Public footpath KM 129 runs in an east -west direction to the south of the site.

2. PROPOSAL

- 2.1 Permission is sought for a further 20 ha of polytunnels for soft fruit production (strawberries and blackberries). Cross section details show the polytunnels having a width of 5 metres and a height of 4.6 metres. The polytunnels will only be covered between March and November.

- 2.2 Also proposed as part of the current application are a series of narrow swales running along the southern perimeter of the application site. The proposed swales and existing measures are sufficient to manage the runoff from the proposed polytunnels. The reservoir shown on the proposed plans is outside the application site boundary, it does not form part of the water management system for the current proposal and does not form part of the current proposal.
- 2.3 The landscape strategy plan shows existing hedgerows defining the northern site boundary, running east west through the centre and along the southern site boundary being thickened up. In addition, a length of the southern site boundary is to be defined by a new hedge and tree line. All new planting will be native species comprising a mix of Hawthorn, Field Maple, Hornbeam, Dogwood, Beech, Holly, Blackthorn, and Dog Rose.
- 2.4 The application is accompanied by supporting information the key points of which are paraphrased below:
- Clock House Farm Ltd has approximately 385 hectares of land spread over a number of farms in Kent producing top and soft fruit.
 - Clock House Farm Ltd supply Tesco, Marks and Spencer, Waitrose, Morrison's, Asda, Sainsbury's, The Co-operative and local outlets.
 - Clock House Farm have received awards relating to food standards and the quality of their produce.
 - Currently employ 45 full time staff with 600 seasonal staff (May to November)
 - Poly tunnels are essential to support the farming practices of Clock House Farm for the growing of strawberries, blackberries and raspberries, to meet customer and market demands over an extended season.
 - Since 2012 supermarkets no longer accept soft fruit for onward sale unless grown under poly tunnels.
 - 10% of the raspberries and 40% of the sweet blackberries sold in the UK are from Clock House Farm Ltd. Without the use and associated benefits of poly tunnels, Clock House Farm Ltd would not be able to provide the amount and level of quality to meet a growing market and which provide 80% of farm turnover.
 - Poly tunnels permit earlier fruit production, extend the growing season, allowed substantial increase in yields, less wastage, weather protection, improved pollination need to use less pesticides continuity of supply and better protection for staff as a consequence of the controlled environment achieved by their use.
 - Over the last fifteen years the sale price of soft fruit has not increased despite large increases in input, harvesting and labour costs.
 - Increases in yields and crop reliability through tunnel use means the productivity of Clock House Farm has continued to rise, allowing the farm to remain competitive.
 - However increased input costs without increases in sale prices means there is even more importance for the fruit to be delivered to the market in larger higher quantities and of a higher quality to maintain contracts and provide a sustainable income.
- 2.5 The application is accompanied by an ecological appraisal, landscape strategy and landscape and visual impact assessment (LVIA), Flood Risk Assessment (FRA) along with farm policy statements relating to Landscape and Nature Conservation/Enhancement, use of energy, water and other natural resources, recycling, health and safety, pollution prevention and nuisance management.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 SP17, DM1, DM3, DM30, DM36
Maidstone Landscape Character Assessment (2015)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.1 2 objections received from local residents raising the following (summarised) issues:
- Proposal will have a significant impact on the landscape character of Linton while being visible from the Greensand Ridge, footpaths along the Beult River, and also from Redwall Lane (including being visible from my property at Redwall Bungalows).
 - The landscape character assessment states that the landscape in this area is sensitive to development and that the undeveloped nature of the landscape with orchards and small fields should be maintained.
 - If permitted will be a swathe of polytunnel almost a mile long running along the Beult Valley, a SSSI.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

- 5.1 **Linton PC:** Object on the following grounds: The proposed polytunnels will directly affect the view from the Greensand Ridge, (various footpaths, but notably KM134, the Greensand Way), from Redwall Lane, from footpath KM146 (between Redwall Lane and the A229) and from the two footpaths alongside the Beult, ie KM129 and KM229.
- The site also falls within the Beult Valley SSSI.
 - Area falls within the Yalding Farmland designation which seeks to conserve the traditional small-scale field pattern, largely undeveloped rural landscape and remote quality of existing development, the rural setting of traditional buildings and farmhouses, distinctive ragstone walling, the undeveloped character of the landscape, resist conversion to arable land, avoid linear infill development along roads.
 - Consider the majority of the above guidelines will be breached by the proposal.
- 5.2 **Kent Highways:** Does not trigger criteria justifying a response.
- 5.3 **MBC Landscape:** There are no protected trees on, or immediately adjacent to, the site. However, there are hedgerows marking the lines of field boundaries which may be considered as 'important'.

A third of the site is located in the Beult Valley landscape character area (58) and public footpath KM129 is in closer proximity.

The landscape guidelines for this latter character area contains a guideline to plant oak standards within new hedgerow planting which can be dealt with by condition.

- 5.4 **KCC Ecology:** No objection as the provision of polytunnels within low biodiversity value agricultural land means they are unlikely to result in any significant ecological impacts.
- 5.5 **Natural England:** No objection but mitigation measures are required to avoid damage or destruction to the River Beult Site of Special Scientific by the use of sustainable drainage systems (SuDS) to ensure water quality in the SSSI is

not affected and reuse of run-off from the SuDS for use in the polytunnels to minimise the need for abstraction which may affect the River Beult SSSI.

5.6 **EHO:** No objection

5.7 **Environment Agency:** No objection as proposal has a low environmental risk.

5.8 **Southern Water:** As proposal involves the use of SUDS to maintain its effectiveness details need to be secured by condition specifying who is responsible for implementation of the SUDS, a timetable for implementation and a management and maintenance plan for the lifetime of the development.

5.9 **KCC Flood and Water Management:** No objection subject to conditions dealing with the following:

- Attenuating runoff rate to 1 in 1 year greenfield rates acceptable.
- Recommend rainwater harvesting/reuse is incorporated into the drainage design to reduce runoff while providing additional benefits to the land owner.
- The detailed design stage needs to include cross sections of the proposed swale including details of the available freeboard and outfall including the hydrobrake.

5.10 **Rural Planning:** No objection subject to conditions:

- Clock House Farm Ltd. is a large and well-established top and soft fruit farming business which currently occupies a total of 385 ha of land across several farms in Kent. Growing soft fruit under polytunnels forms a significant part of their overall production.
- It has been recognised for some years that the use of polytunnels is now a necessary part of modern soft fruit production. The system has a number of advantages over conventional unprotected growing including the ability to protect crops from the wind and rain, reduce pesticide/ fungicide use, extend the growing season, provide better yields and continuity of supply, and greater ease of managing the plants and picking the fruits.
- The use of tunnels assists UK growers to meet customer demand as opposed to what might be regarded as the less sustainable alternative of foreign imports.
- In effect the tunnels comprise units of production in themselves, and can be regarded as inherently required and appropriate for the purpose of modern UK soft fruit production.
- Such tunnels have been allowed on many other holdings across the County, as well as on the applicants' farms, subject to the imposition of appropriate conditions.

5.11 **Health and Safety Executive:** No objection

APPRAISAL

6. Main Issues

6.1 The key issues for consideration relate to:

- Principle
- Impact of the proposal on the character and setting of the countryside
- Highways
- Flooding
- Wildlife

Principle

6.2 The NPPF at paragraph 83 seeks to promote a prosperous rural economy, by amongst other things, promoting the development and diversification of agricultural and other land-based rural businesses;

- 6.3 Policy SP17 of the local plan states, amongst other things, that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted.
- 6.4 Policy DM30 of the Local Plan specifically requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated and 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 reflecting the landscape character of the area.
- 6.5 Policy DM36 sets out specific requirement for new agricultural buildings and structures.
- 6.6 Given the above it is considered that there is no objection to the proposal in principle and consideration turns on whether it can be seen to meet the detailed criteria of policy DM36 set out below.

Compliance with policy DM36:

- 6.7 The first test is whether the proposal is necessary for the purposes of agriculture.
- 6.8 The applicants advise that soft fruit production is a growing market providing 80% of farm turnover. Notwithstanding, the sale price of soft fruit has not increased despite large increases in input, harvesting and labour costs. As such it is only by increasing yields through polytunnel use that productivity continues to rise allowing the farm to remain competitive and to provide a sustainable income.
- 6.9 The Agricultural Advisor confirms that the use of polytunnels assists UK growers in meeting customer demand as an alternative less sustainable foreign imports and can be regarded as inherently required and appropriate for the purpose of modern UK soft fruit production.
- 6.10 Given the importance of this enterprise both in its local and wider economic impacts along with its significant employment generating benefits, it is considered the proposed polytunnels are necessary to enable the enterprise to continue to operate profitably and by implication are therefore necessary for the purposes of agriculture.
- 6.11 Regarding whether the proposal will have an impact on the amenity of local residents, there are not considered to be any neighbouring properties sufficiently close to be adversely affected contrary to the provisions of policy DM1 of the local plan. In making this comment it is acknowledged that concerns have been raised regarding harm to the character and setting of the wider rural landscape. However, this is protected in the public interest in accordance with the provisions of policy SP17 and DM30 of the local plan.
- 6.12 Policy DM36 also seeks to avoid isolated structures and where this is necessary a siting should be chosen minimising the impact of the structures on the character and appearance of the countryside.
- 6.13 Given the scale of the proposed development and the need to locate it close to the existing processing complex there is not considered to be any reasonable less harmful alternative siting. It therefore becomes necessary to deal with the application on its merits and whether on its own or in conjunction with the polytunnels permitted on the adjoining site to the east (30 ha in total) it will result in unacceptable landscape harm to the locality.

Landscape impacts:

- 6.14 The site is mainly located in the Yalding farmlands, as designated in the Maidstone Landscape Character Assessment with a small area in the Beult Valley.
- 6.15 Both areas are categorised similarly in the Landscape Capacity Study: Sensitivity Assessment in that they have a high landscape character sensitivity and a moderate visual sensitivity. Therefore, they are assessed as being of high overall landscape sensitivity and sensitive to change. The key guidelines and mitigation recommendations for each area below:
- Yalding Farmlands
- 6.16 Development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with existing. Other development could be considered to support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.
- 6.17 Guidelines and Mitigation:
- New development should respect the local vernacular in scale, density and materials
 - Conserve orchards and the traditional small scale field pattern
 - Conserve the largely undeveloped rural landscape and the remote quality of existing development
 - Conserve the undeveloped character of the landscape
 - Soften the impact of agricultural buildings and fruit growing equipment storage areas with native planting
 - Increase habitat opportunities around water bodies and ditches by promoting a framework of vegetation in these areas
 - Soften the visual prominence of large agricultural barns through native planting
- Beult Valley
- 6.18 Pressure for development to spread onto the visually sensitive valley floor, notably at Yalding and Headcorn, should be resisted to maintain the open character of the floodplain. Minor development to support existing scattered settlements and farmsteads could be considered.
- 6.19 Guidelines and Mitigation:
- New development should respect the local vernacular in scale, density and materials
 - Conserve the river and its corridor by promoting improved water quality and reducing nitrogen-rich runoff from nearby arable fields and discharges
 - Conserve oak as a dominant hedgerow tree species, and plant new oak standards within hedgerows to replace ageing species
 - Conserve the species rich hedgerows, ensuring that they are correctly managed and gaps replanted
 - Encourage the restoration of lost hedgerow boundaries in arable areas
 - Conserve the pastoral land and occasional orchards and resist conversion to arable land
 - Conserve and restore habitat features around water bodies and ditches by promoting and managing a framework of vegetation with links to the river
- 6.20 Regarding the impact on the Yalding Farmlands not all the above criteria can be considered as relevant to the application site. The application site is characterised by large open fields with one sparse hedgerow traversing it in an east/west direction with hedgerows on the north and south site perimeters.
- 6.21 The site in its current condition is therefore not considered to materially contribute to conserving the traditional small scale field pattern in the locality.
- 6.22 As to conserving a largely undeveloped rural landscape, polytunnel development

now forms an increasingly accepted part of the rural landscape. As such it is considered it would be difficult to make a case they are out of character in a rural landscape.

- 6.23 Increasing habitat opportunities around water bodies and ditches by promoting a framework of vegetation in these areas is an integral part of the proposal. This is demonstrated by the intention to 'gap up' existing hedgerows, provision of a new hedge and tree line along with the construction of swales to attenuate surface water runoff, to provide a water recycling resource all of these measures helping to increase wildlife habitat in what otherwise appears a species poor habitat.
- 6.24 The River Beult SSSI lies to the south of the site with a public right of way running along it. Taking into account the generally low laying nature of the locality, low height and profile of the polytunnels and additional planting along the southern site perimeter, it is considered that any visual impact on the River Beult corridor falls within acceptable limits.

Wider Landscape Impacts:

- 6.25 It is contended that the proposed polytunnels on their own and in connection with those approved on the adjoining site adversely affect long range views from the Greensand Ridge to the north. The LVIA accompanying the application concludes the following:
- That agricultural practices would continue on the land
 - That polytunnels are a common feature in the area and would not appear incongruous as a consequence
 - Polytunnels have most impact when covered by polythene. However this would only be between March and November when planting would be in leaf and providing maximum screening.
 - As such the proposal will not have a significant impact on the Low Weald. Greensand Ridge and the Grade II* Listed Parks and Gardens, Linton Park and its Grade I Listed House.
 - There would be views from the public footpath approximately 40-100m south of the Site running along the River Beult and KM 229 located 450m south of the site along with occasional, partial views from the Greensand Ridge and Greensand Way. Views from all PRoW footpaths not be significant after mitigation planting became established.
- 6.26 The LVIA concedes that there are three viewpoints along PRoW KM129 and a south facing view from the Greensand Way (PRoW KM125) which would experience a direct significant impact. However, once the proposed mitigation planting along the northern and southern site boundaries becomes established (after 5 to 10 years) there would no longer be significant views of the proposed development.
- 6.27 Subject therefore to the implementation of the proposed landscaping scheme and the polytunnels only being covered between March and November, it is considered the conclusions of the LVIA are sound. As such any harm to the wider landscape falls within acceptable limits thereby meeting the provisions of policies SP17, DM30 and DM36 of the local plan.
- Control of surface water runoff:**
- 6.28 The proposed swales are sufficient to attenuate surface water runoff for the proposed polytunnels in the interests of flooding to avoid any adverse impact on the River Beult SSSI. A condition is recommended requiring the swales to be in place before any polytunnels can be placed on site.

Maintenance and enhancement of existing field margins to encourage biodiversity:

- 6.29 The ecological appraisal submitted with the application concluded that the majority of the proposed development area consists of intensively managed farmland though existing hedgerows within the site provide some habitat. This view is supported by KCC Ecology who agree the site mainly comprises low biodiversity value agricultural land.
- 6.30 There may be incursions into the site by reptiles and it is intended that 6 metre mown margins will safeguard their interests but no other specific wildlife measures are proposed.
- 6.31 Turning to wildlife enhancements, the proposed landscaping scheme and provision of swales will add significantly to wildlife habitat in this otherwise species poor location.
- 6.32 It is considered these are proportionate to the scale and impact of the proposed development meeting the provisions of the NPPF and policy DM3 of the local plan.

Highways:

- 6.29 Traffic associated with the operation and harvesting of the polytunnels will not impact upon the local road network with access to them gained via internal routes. Though there may be some increase in traffic movements entering and leaving the site due to increased production, the Clock House Farm complex has good access onto Redwall lane and then onto Linton Hill. As such in the absence of adverse comment from Kent Highways the proposal is considered to be acceptable in its highway impacts.

Public Sector Equality

- 6.30 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Other matters

- 6.31 The proposal has already been 'screened' (application ref:19/505068) where it was determined it does not need to be accompanied by an Environmental Impact Assessment. It should be stressed this does not imply support for the proposal or set aside the need to assess the proposal against normal planning criteria.

7. CONCLUSIONS

- 7.1 It is considered that the proposal is justified as being essential to the continuing development and viability of this important rural business while being acceptable in landscape, amenity, flooding, wildlife and highway impacts. It is therefore recommended that planning permission be granted.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

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

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

- (2) The polytunnels hereby permitted shall (a) only be covered with clear/colourless polythene and (b) only be covered between the 1st March and 31st November in each year.

Reason: In the interests of visual amenity.

- (3) The landscaping and planting details shown on the Landscape Strategy Plan hla 343 01 (which shall include the provision of oak standard trees to reflect the landscape character area guidelines) shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012 and planted in accordance with BS:5837: 2012.) The approved landscaping details shall be carried out in the first available planting season following first erection of any of the polytunnels hereby permitted.

Reason: In the interests of visual amenity.

- (4) Any landscaping becoming dead, dying or diseased within 5 years of planting shall be replaced with specimens of the same size, species and siting in the next available planting season.

Reason: In the interests of visual amenity.

- (5) Prior to the development hereby approved commencing details of (a) the size of the proposed swales shown as sited on drawing no: 5114-01 (showing levels and long and cross sections) and (b) their long term maintenance shall be submitted to and approved in writing by the Local Planning Authority. The swales shall be provided in accordance with the approved details before erection of any polytunnels hereby permitted and maintained in accordance with the approved details for the life of the development.

Reasons: In the interests of flood prevention and to protect the habitat of the River Beult Site of Special Scientific Interest.

- (6) In the event the application site is not used for soft fruit production for more than two years in a row all polytunnels including all equipment and covering material shall be removed from the land which shall be restored to its former condition,

Reason: In the interests of visual amenity.

- (7) The wildlife enhancement and mitigation measures set out in the report by KB Ecology dated the 16th October 2019 shall be carried out as proposed prior to first use of the polytunnels hereby approved.

Reason: In the interests of wildlife.

- (8) The development hereby approved shall be carried out in accordance with the following approved plans drawing nos: 5114-01, 01a, 02b, 03 and Landscape Strategy Plan hla 343 01.

Reason: In the interests of amenity.

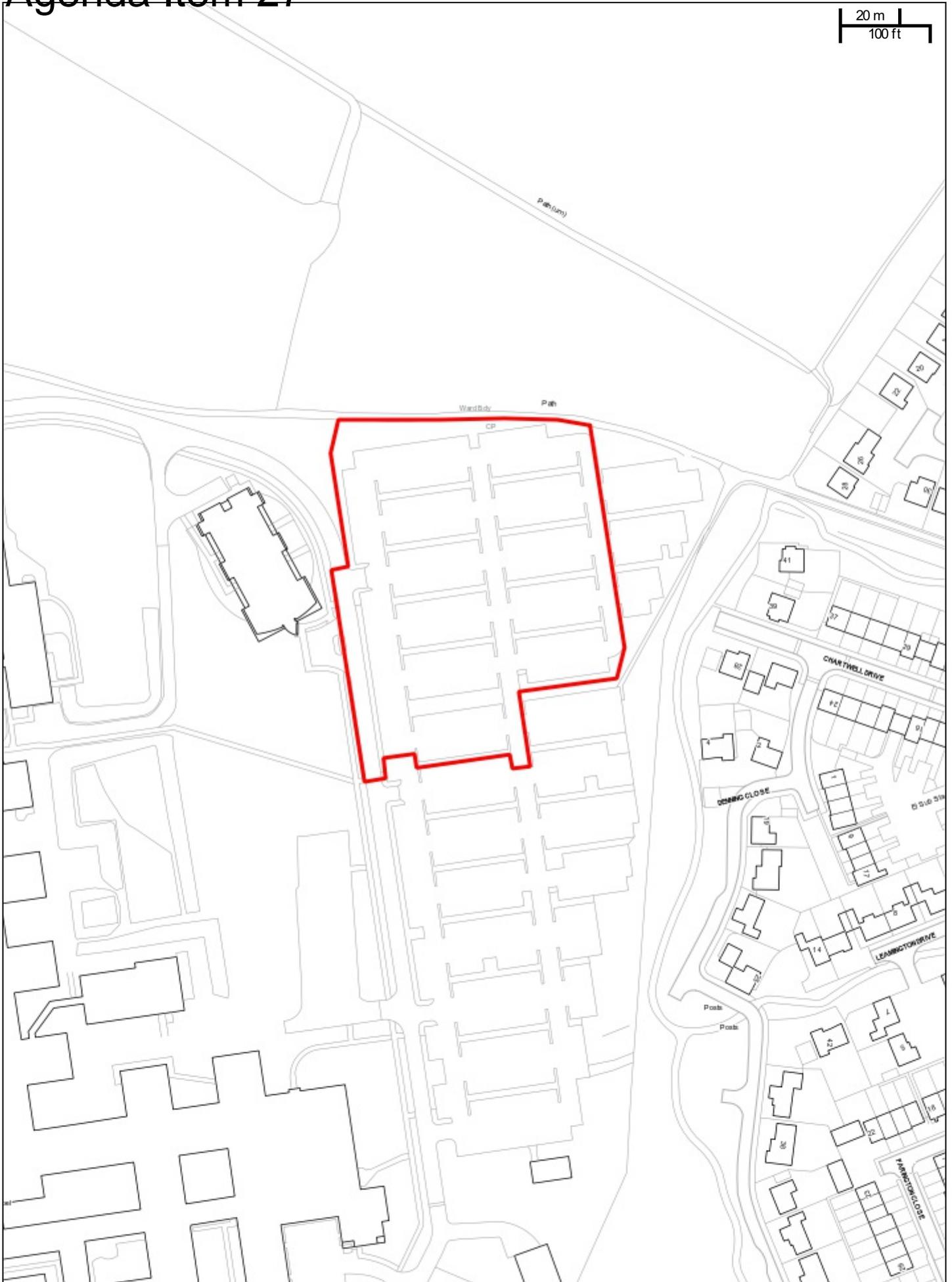
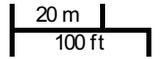
Informative(s):

- 1) A significant part of the site lies falls within a KCC Minerals Safeguarding Area and KCC should be contacted for advice on how this is likely to affect the development hereby permitted.
- 2) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. 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/highwayboundary-enquiries>
- 3) 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) Due to the in-combination effects from the proposal and existing nearby polytunnel sites, rainwater harvesting should be employed as well as buffer strips between the polytunnels. Natural England has Catchment Sensitive Farming officers working in the Beult catchment who offer free specialist advice through a water resources audit and water pathway management. If the Applicant would like to take up this offer, please get in touch with Ben Thompson (ben.thompson@naturalengland.org.uk)
 - 5) Bats: Lighting can be detrimental to roosting, foraging and commuting bats¹⁰, the recommendations from the Bat Conservation Trust and the Institution of Lighting Professionals, titled ‘Guidance Note 8 Bats and Artificial Lighting’¹¹, should be considered when designing any lighting scheme for the proposed development, if any lighting is proposed.
 - 6) It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119), www.southernwater.co.uk or by email at developerservices@southernwater.co.uk
 - 7) Other consents may be required for different activities (such as water abstraction or discharging to a stream), and the Environment Agency has a regulatory role in issuing and monitoring them. The applicant should contact 03708 506 506 or consult our website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>

Case Officer: Graham Parkinson

Agenda Item 27



REFERENCE NO - 20/500163/FULL	
APPLICATION PROPOSAL Erection of a deck above (part of) the existing car park to provide 211 additional parking spaces, with associated lighting and other ancillary works.	
ADDRESS Maidstone And Tunbridge Wells NHS Trust Maidstone Hospital, Hermitage Lane Maidstone, Kent, ME16 9QQ	
RECOMMENDATION Grant subject to the conditions listed below.	
SUMMARY OF REASONS FOR RECOMMENDATION The provision of additional car parking will allow the Hospital to address an existing shortfall of parking accommodation on the site for staff and patients / visitors. The proposals is adequately separated from neighbouring residents and enhanced planting will mitigate any potential additional impacts.	
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Vizzard in order to allow landscape and other potential impacts to be assessed.	
WARD Heath	APPLICANT Maidstone And Tunbridge Wells NHS Trust AGENT Stripe Consulting
TARGET DECISION DATE 13/04/20	PUBLICITY EXPIRY DATE Neighbour / stat' consultees - 11/02/20 Site Notice - 20/02/20 Press Notice - 21/02/20
RELEVANT PLANNING HISTORY The Hospital is a large site with a complex planning history, the majority of which is not relevant to this application. However, Members should note that the case below is referred to within the Officer assessment. 16/501007/FULL - Construction of new 145 space patient and visitor car park with lighting columns. Approved Decision Date: 25.04.2016	

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site comprises part of the Hospital's existing eastern car park (circa 320 - 330 spaces), together with the southern vehicle circulation route (the latter only being shown to demonstrate access to the public highway).
- 1.02 The wider Hospital campus contains a range of clinical buildings and supporting infrastructure, with the principal staff and visitor parking areas being located to the east and western sides respectively. Both car parks are accessed via the main access and egress points to Hermitage Lane via the internal circulation road.
- 1.03 This car park lies on the eastern part of the hospital campus, with clinical buildings located to the west and south. Whilst the helipad lies west of the car park, behind a small clinical block, the submission of the application follows an agreement between the Hospital and the Air Ambulance Service (and liaison with the CAA in terms of their advisory capacity) in regard of the location and height of the car park.
- 1.04 The northern boundary is marked by a public footpath and wooded area beyond, which separate the Hospital campus from residential development sites. The

eastern boundary to the car park contains a narrow strip of planting within the site, together with an adjacent footpath / green wedge which separates the site from residential properties located within Chartwell Drive and Denning Close.

- 1.05 Many of these properties have an open frontage onto the green wedge and the car park beyond, particularly during seasons when the vegetation is not in full leaf. A degree of inter-visibility therefore exists between the site, residential neighbours and parties using the adjacent public footpaths.

2. BACKGROUND AND PROPOSAL

- 2.01 The Hospital's submissions highlight that the site provides acute in and outpatient care for a population catchment of over 150,000 with the hospital providing the Cancer Centre for the whole Kent area and having been identified as one of Kent's future Hyper Acute Stroke Services. Circa 3,000 staff are employed, with staff based at the Trust's other sites / services, attending Maidstone at certain times in their role of delivering Trust-wide services.

- 2.02 The Hospital advises that difficulties arising from inadequate levels of car parking impact beyond the convenience of staff or visitors, as they adversely affect the levels of clinical care due to, for example, missed or delayed appointments.

- 2.03 The Trust advises that it is seeking to provide a balanced improvement in the level and availability of parking for both staff and visitors.

- 2.04 Evidence from past site visits confirms that the site (and the surrounding area) have experienced issues associated with overspill parking, including unneighbourly parking on nearby residential streets and vehicles parked in inappropriate areas within the Hospital site itself. Evidence submitted with the application suggests that up to 180 vehicles have been parked illegally on site, with parking taking place on, for example:

- service roads and service bays
- green verges / open spaces
- central isles, circulation routes and turning areas within the car park, including double parking

- 2.05 In 2016, the Hospital received planning permission for 145 additional spaces, which were to be located on open land to the west of the application site, between it and the main Hospital building complex. However, if this approved car parking area were implemented, it would potentially reduce the future operational flexibility of the Hospital complex and would, for example, increase the proportion of the site covered by hardstanding. The Hospital therefore proposes an alternative parking scheme, in the form of a deck over part of the existing eastern car park. However, the previously approved location will be made available, with temporary surfacing, to provide additional parking capacity during the construction period for these works.

- 2.06 The sketch below identifies the two elements of the existing car park where changes are proposed.

- The smaller shaded area identifies an area of the existing car park where the alignment of existing parking bays and isles at surface level may be slightly changed following completion of the deck (in order to ensure that free circulation is maintained). There will be no increase in the total number of parking spaces within this area (indeed a potential reduction to allow the boundary planting to be extended) and no change to the character or intensity of artificial lighting.

- The larger shaded area identifies the approximate footprint of the proposed deck, which is set away from the boundary, with the closest residential properties being separated by a distance of circa 60-65 metres.
- The unshaded area of the car park will remain unchanged, including those parts closest to residential neighbours.
- The deck is located adjacent to the car park entrance in order to encourage the greatest turnover of spaces within the area farthest from neighbours.



- 2.07 The car park will be constructed off a steel frame structure with the ramps and deck surfaces comprising pre-cast concrete panels. This modular form of construction is designed to reduce the overall construction programme and, for example, to limit the amount of intrusive ground works; a benefit to both the sensitive operational nature of the Hospital and its neighbours.
- 2.08 The sides of the upper deck will be contained by galvanised mesh panels, with those on the more sensitive eastern elevation being more solid in order to avoid headlamp spillage towards residential neighbours.
- 2.09 The application is supported by a tree survey, ecological survey and a biodiversity enhancement scheme that looks at the wider hospital site and these reports are addressed within the assessment below.
- 2.10 The scheme will include the installation of 12 No. electric vehicle charging bays, to be located within an area of the car park that is most flexible to future needs.
- 2.11 The proposed footprint of the new deck is circa 96 metres by 52.5 metres with ramps at both ends and pedestrian stairs. The height of the new parking slab will be circa 3.6 metres, with the guard screens rising to circa 4.8 metres. The upper height of any lighting columns will be circa 6.5 metres. As a comparison, a typical two-storey house could rise to say 5 - 6 metres to eaves and say 8 - 9 metres at ridge. The height of the car park will therefore be lower than the majority of buildings on the campus.
- 2.12 As recommended by the NPPF (para 38) and both MBC and KCC guidance, the application has been the subject of pre-application discussions with both MBC Officers and the Highway Authority. The Hospital has also engaged with Local Members and committed to further liaison with residents groups. This process has

assisted in identifying potential issues and the level of material that would be necessary to support the application. However, in response to resident concerns about, for example, early fencing of the site; it should be emphasised that whilst the pre-application process is intended to support the formal assessment process, it does not in any way represent pre-determination on any issue.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017

Relevant MBLP policies are:

- SS1 – infrastructure schemes will be supported
- SP23 – sustainable transport
- DM1 – good design
- DM3 – natural environment
- DM4 – brownfield land
- DM6 – air quality
- DM8 – external lighting
- DM21 – transport impacts

National Planning Policy Framework (NPPF)

The assessment process has also been guided by the following NPPF references:

- 8/92 – support healthy communities
- 38 – positive decision-making
- 39 – pre-application engagement
- 108 – assess transport impacts and promote sustainable development
- 117 – make effective use of land
- 127+ design quality
- 175 – biodiversity considerations
- 180 - noise

4. LOCAL REPRESENTATIONS

Local Residents:

4.01 Six local residents have raised raising the following (summarised) issues:

- Support the principle of the deck being set further back
- Support the concept of a green wall
- Loss of privacy
- Increased traffic, noise and pollution (air quality dust and light)
- Impacts will be exacerbated by the height of the deck
- Hospital should consider a second exit
- Proposed lighting scheme acceptable
- Loss of trees and ecological impacts
- Concern over premature commencement
- Additional on-site parking will not prevent off-site parking
- Suggest western car park would be a better option
- Inadequate noise assessment
- Existing noise attenuation should be retained
- Inadequate EV parking

- 4.02 Matters raised, which are not material planning considerations and therefore cannot be taken into account in the determination of this application include; loss of value and parking charges.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

Ward Cllr Vizzard

- 5.01 Expresses concern in relation to the loss of trees, light spillage and the potential impacts on residents to the east.

County Councillors Bird and Daly

- 5.02 Support the principle of additional staff parking on-site and measures by the Hospital to encourage the use of park and ride. However, concerned with the loss of 69 trees and would expect to see more details of the replacement planting. Support the proposals to incorporate a green wall system and request early implementation. Support the introduction of EV charging points, but request that the capacity for future expansion is in-built.

Natural England

- 5.03 No comments to make.

KCC PRoW

- 5.04 No relevant comments to make.

MBC Environmental Health

- 5.05 No comments submitted.

Kent CC Highways

- 5.06 The application has been the subject of pre-application discussions with KCC Highways in relation to the submitted TA and a draft Travel Plan. KCC are currently assessing the submitted transport assessment in order to ensure that the methodology used is robust and that any potential impacts that may arise can be suitably mitigated.
- 5.07 In terms of the overall parking strategy KCC Highways recognise the importance of parking being available at the Hospital, but having regard to local conditions wish to ensure that increased congestion on local journey times, road safety and air pollution are not exacerbated.
- 5.08 Members will be updated as necessary should any further mitigation measures be identified beyond those detailed below.

6. APPRAISAL

Main Issues

- 6.01 During the assessment of this application a number of meetings have taken place with local residents and between Ward Members and the Applicant. The assessment and mitigation measures discussed below therefore reflect and respond to both these discussions and the formal written comments summarised below.

The case officer has also visited neighbouring properties in order to view their relationship with the site. The main issues for consideration are therefore:

- The principle of additional parking on-site
- Design and appearance
- Impact upon trees / landscaping and ecology/biodiversity
- Traffic and transport
- The potential impact upon neighbours in terms of:
 - Privacy, Noise, Air Quality, Artificial Light

Principle of Additional Parking

- 6.02 Whilst complex sites such as this do not have a formal parking standard guideline, it is acknowledged that the Hospital has experienced a long-term deficiency in the level of car parking available to both staff and patients / visitors and that this has led to unacceptable parking conditions, both on-site and within surrounding residential streets.
- 6.03 However, whilst providing an adequate level of parking to meet current needs may be desirable, as with all land uses, it is important that the Hospital acknowledges the need for and promotes sustainable modes of travel and alternatives to the use of low occupancy private cars. These issues are addressed in further detail below.
- 6.04 The position of a parking deck over an existing hard landscaped area is considered to be preferable to the previously approved option of hard landscaping the green area to the west of the access road. This is not only preferable in terms of say future biodiversity opportunity and existing surface water drainage; but also offers the Hospital greater flexibility in planning for future clinical care provision.
- 6.05 One representation questions whether the Hospital's western car park would be a better option, however, this application has to be considered on its own merits and in the absence of an overriding level of harm, it would not be necessary for this current process to consider whether there are other alternatives.
- 6.06 To summarise on the principle of the car park, there is broad support for additional parking provision, although this subject to the wider policy and environmental considerations identified below, including matters that have been raised by residents that must be considered carefully.
- 6.07 Subject to the following considerations, the principle of development accords with policy SS1 of the MBLP in that it supports the provision of infrastructure and responds to MBLP policy DM4 and the NPPF in making the best use of land.

Design and Appearance

- 6.08 MBLP Policy DM1 seeks to promote high quality design which, where appropriate, should:
- respect the amenity of neighbours
 - respond to local context
 - protect or enhance biodiversity
 - ensure safe vehicle movements
- 6.09 The car park is by its nature, a structure the form of which is driven by function rather than design. It's appearance is utilitarian and the use of steel and concrete do not incorporate natural elements.

- 6.10 The Hospital site as a whole is not considered to be visually sensitive and contains a wide range of buildings styles, hard surfacing and supporting operational plant. The location of the car park is set well away from the primary road frontage, but is nevertheless visible from two public footpaths and will be visible to varying degrees from existing residential properties to the east. It is therefore relevant to assess the visual impact of the proposal in relation to these potentially sensitive receptors.
- 6.11 To the east, residential properties in both Chartwell Drive and Denning Close are situated close to the Hospital boundary. As identified above, the new deck is set back within the existing parking area. Distances between the deck structure and neighbouring houses vary from circa 60metres to circa 90-100metres. This distance is, in itself, an appropriate level of separation to avoid any overbearing impact and as the new structure will be viewed in the context of the existing expanse of car parking, it will not appear alien in function.
- 6.12 The same principle applies to the footpath that separates the housing from the hospital site. However, as the proposal will introduce a relatively utilitarian structure within an otherwise surface level area, it is considered that appropriate mitigation should be proposed to reduce its visible impact.
- 6.13 The proposal will be sited relatively close to the northern boundary, circa 10 – 15 metres and will clearly be visible to users of the adjacent footpath, which links through to Hermitage Lane. The character of the footpath is dominated by the tall established woodland immediately to the north, with the younger landscaping to the south, within the car park, being less mature.
- 6.14 Whilst the footpath's character is therefore defined by significant extents of natural planting, users will potentially perceive the bulk of the structure as they pass by its circa 50 metre shorter elevation. This impact is not considered to be unacceptable in principle, but an enhanced level of landscaping within the site will ensure that its existing character is maintained.
- 6.15 In addition to the landscaping details assessed below, the Trust proposes that the car park structure incorporates a living wall. This is considered to be a positive feature that will offer significant visual and potentially biodiversity benefits. It is proposed that the scheme is secured through condition as part of the wider landscape and biodiversity enhancements listed below. A well executed living wall will have the potential to create a feature of interest within the Hospital campus.
- 6.16 Having regard to the Hospital's procurement programme for the proposed works, this landscaping scheme would be submitted within 3-6 months of the commencement of the car park works and be carried out within the first appropriate planting season. Whilst there may therefore be a short term visual impact, this is not in itself justification to oppose the scheme on design grounds and will be outweighed by the net benefits in the longer term as the planting scheme becomes established.
- 6.17 It is therefore considered that subject to the mitigation measures identified, the proposal is able to respond positively to the objectives of MBLP Policy DM1 and the NPPF.

Existing Trees / Proposed Landscaping / Biodiversity Enhancement

Existing Trees

- 6.18 MBLP Policies DM 1 and 3 require development to respect and enhance the natural environment and to retain landscape features of visual and biodiversity significance. The area of car parking to the south of the application site contains a

number of TPO trees, however, the development boundary is sited well away from this group. Nevertheless, as part of the suite of planning conditions, measures to ensure that construction traffic does not affect this area will be secured. Similarly, the large area of woodland to the north of the site will not be affected by the proposed works.

- 6.19 The application is accompanied by a detailed arboricultural assessment, which has considered the net impact of the proposals.
- 6.20 The existing car park is characterised by a series of planting beds, which contain relatively young trees and shrubs. Whilst these offer visual mitigation to the car park, they substantially comprise ornamental and non-native species. These species offer relatively limited landscape and ecological value and the Trust has therefore partnered with the Kent Wildlife Trust to develop a new planting and biodiversity enhancement strategy, not simply for the car park area, but across the Hospital site as a whole. This strategy will involve a no-net loss approach in terms of trees to be replaced, with a phased naturalisation of planting across the site as a whole.
- 6.21 The assessment identifies the potential for 69 trees to be removed, but this maximum figure assumes that all surface trees within the car will be lost, which may not be necessary. The loss of a significant number of trees is regrettable as their future landscape and biodiversity benefits will be lost. However, as a significant number of these trees are relatively immature, of very limited ecological value and have introduced ornamental and invasive species, it is considered that their programmed replacement will ultimately represent a long term benefit for the site.

Ecology and Biodiversity Enhancement

- 6.22 The ecological survey identifies that no significant habitat or species are present within the application boundary. The character of the main car park area, with isolated planting beds set within high kerbs, amongst large areas of car parking is not considered to be a significant potential habitat for reptiles or amphibians, badgers or dormice. Nor does the site contain habitat suitable for bat roosting, with the main potential for bat habitat and roosting being the more substantial wooded areas to the north and east.
- 6.23 Whilst the assessment does not consider that, having regard to the existing car park use, there will be any direct impact upon the ecologically sensitive woodland to the north, it recommends measures to contain construction impacts and the effect of new lighting; both of which are to be addressed through conditions. The report also recommends that existing non-native invasive species be removed.
- 6.24 In response to the ecological assessment, the Trust has engaged the Kent Wildlife Trust to advise on; not only appropriate mitigation measures for trees and habitat that are to be removed, but to assess how a Hospital site-wide enhancement scheme can be delivered.
- 6.25 KWT identify that the peripheral areas of the Hospital site contain the greatest potential as they are less intensively managed, with the internal car parking areas and generally mown grass currently offering little potential in their current form. KWT have therefore set out a series of recommendations in relation to both direct mitigation measures and site wide enhancement opportunities. These include, for example:

Mitigation

- Incorporation of living wall to the car park
- Woodland wildflowers within the northern and eastern boundary edges

- Increased depth of planting on the eastern boundary with the introduction of native hedgerow and lower height tree species
- Introduction of native trees and shrubs within existing surface car park
- Creation of dead wood habitat and reptile refuges on the northern and eastern boundaries

Site – Wide Enhancement

- Creation of pocket wildlife meadows and beds across the site (including raised beds to provide sensory experiences for patients)
 - Further site living walls and green roofs
 - Phased replacement of non native species
 - Site wide refuges for reptiles
 - Enhancement of existing ponds to be wildlife friendly, introduction of native aquatics
 - Assess locations for additional ponds
- 6.26 It is anticipated that such measures would form part of a five year initial management plan. However, priority is to be given to the enhancement of the eastern boundary with neighbouring residential properties and the planting within the adjacent surface level car park, thus providing adjacent residents with amenity benefits early within the overall programme. As a part of this scheme, the hospital will be required to not only strengthen planting within the eastern boundary, but to increase its depth, providing both enhanced visual screening, but also an enhanced habitat. MBC Officers have encouraged the Hospital Trust and KWT to engage with residents in the design planning and implementation of this scheme, not only to secure their buy-in, but also, for example, to provide a biodiversity learning opportunity for residents.
- 6.27 Subject to the direct mitigation measures identified above, it is considered that the scheme is capable of delivering net benefits both within the application site and the wider Hospital campus, thus according with the principles of MBLP Policy DM3 and the NPPF.

Parking, Traffic and Transport

- 6.28 The Hospital currently has a total of 1,537 spaces, the majority contained within the two main parking areas, but with other smaller parking areas dedicated to clinical units around the site. The current split between staff and visitor allocation is circa 70:30. As detailed above, surveys show that for significant periods, the existing car parks operate over capacity, with the resulting issues of illegal on-site and also neighbourhood parking.
- 6.29 The transport assessment is therefore based upon the additional parking being necessary to meet existing needs and to alleviate existing issues, rather than attracting additional traffic to the site. This approach is broadly sound, although it is considered that there will be a net additional level of traffic.
- 6.30 Ensuring an adequate delivery of parking for staff to enable the delivery of clinical services and access to those services by the public (visitor and patient parking) is a recognised need. The need to address the current parking conditions is a significant material consideration, but must also be weighed against the objective of promoting sustainable alternatives.

- 6.31 The longer-term preference of KCC would be to see the balance between staff and visitor parking move towards visitors in the longer term. Whilst this is not a matter than this planning application can control, outside of the application process KCC officers have been working with the Hospital and their appointed consultants in order to prepare a new staff travel plan that encourages staff to move to more sustainable options. Measure currently being undertaken / considered include, for example:

Existing Measures

- Staff engagement events re travel habits
- Short-term shuttle service to park and ride in liaison with Arriva
- Membership of the Arriva discounted travel club
- Free staff travel on identified bus routes
- Membership of the cycle-to-work scheme

Planned Measures Being Considered

- Enhanced secure cycle parking
- Investigation of enhanced pedestrian connectivity
- An extended EV parking scheme
- Promotion of a car sharing club with dedicated car share bays
- Enhanced staff public transport information

- 6.32 The Hospital is considered to be a sustainable location, with good pedestrian / cycle accessibility to the wider area. The site is also well served by bus services, which connect with the town centre and rail routes.

- 6.33 On balance, it is considered that the additional level of parking proposed is an acceptable response to current conditions and will result in net benefits to the delivery of and access to clinical services, without adversely affecting the amenity of neighbours. Ultimately the Council would wish to see the emphasis move away from staff to visitor parking, but this is a matter that will best addressed through the ongoing development of the Hospital's staff travel plan. As this is an existing travel plan, it is not a conditional requirement of the planning application.

- 6.34 It is therefore considered that, subject to any s278 mitigation measures that may need to be agreed between KCC and the Trust, the application accords with MBLP policies SP23 and DM21 and the relevant provision of the NPPF in relation to transport impacts, parking provision and sustainable transport objectives.

Neighbour Amenity

- 6.35 Consistent with the NPPF, MBLP Policy DM 1 seeks to ensure that developments do not result in unacceptable or excessive impacts upon neighbours. In this instance potential impacts on neighbours are primarily in relation to the residential estate to the east, where the potential impacts include noise, privacy, artificial light impacts and air quality.

- 6.36 It should be noted that the existing relationship, that of a surface car park adjacent to the boundary, will not change, although there will be a widening of the boundary landscape buffer in order to increase visual and physical separation. The prevailing character of the immediate area will therefore not materially change, other than the phased implementation of replacement native landscaping.

- 6.37 Nor will the intensity of use of this surface parking area change, with no increase in parking numbers within the surface level zone. This existing surface area is

already artificially illuminated and there are no proposals to intensify the existing lighting within this area..

- 6.38 By design, the proposal seeks to avoid or mitigate potential amenity impacts. The first is by setting the new deck a substantial distance back from the boundary, with the separation with nearby houses ranging from approximately 60-100 metres.
- 6.39 As detailed above, the principle of the development is based upon the provision of additional formal car parking spaces to address the impacts of an existing deficit, with identified impacts arising from the inadequate provision including, for example:
- Staff and visitor vehicles circulate through the hospital campus and car parks 'hunting' for an available space, before:
 - attempting to park offsite in the surrounding residential areas
 - parking illegally within the estate.
 - sitting waiting for spaces to become available
- 6.40 The resulting effects are an increase in parked vehicle numbers and the number of movements and activity of vehicles manoeuvring within the hospital site, plus additional vehicle movements on the highway network and within surrounding residential estates.

Privacy

- 6.41 Whilst the proposals will introduce new car parking at a physically higher level than the existing surface; due to the significant separation distances, it is not considered that there would be a loss of privacy through overlooking of private properties. Nevertheless, there is the potential for a perception of being overlooked to make residents feel less comfortable.
- 6.42 In order to address this matter, a condition is proposed that will secure an enhanced planting buffer between the relevant homes and the car park area. This enhanced buffer will be both deeper and incorporate an increased level of planting with elements of evergreen where possible to provide year round screening. Whilst such planting may take time to develop and thus there may be some short-term impacts, the proposed conditions will require early planting within this area in order to reduce the net short-term impacts.

Noise

- 6.43 In support of the application, an assessment of existing and predicted noise levels has been undertaken, including a measurement point on the sensitive eastern boundary. The report concludes that as the character of the adjacent area of car parking is not changing, that there will be no material increase in activity and noise within this zone. Officers consider that this presumption is sound and also consider that with an increased level of parking overall, and a shift of the balance close to the main hospital complex, the net movement of vehicles within this area and the propensity for the spaces closest to residents to be used could reduce.
- 6.44 It is therefore considered that within the sensitive area closest to neighbours, the character and use of the car park will not materially change, that there will be no adverse impact and the potential for modest net benefits.
- 6.45 In terms of the increased use of the car park area where the deck is to be created, due to the separation from the boundary and having regard to existing background noise levels, it is not considered that adverse impacts would arise.

Artificial Lighting

- 6.46 The existing surface parking area closest to the eastern boundary is already illuminated and there will be no material change to artificial lighting levels within this zone. Lighting for the new upper area of the deck will comprise pole mounted lights around the deck which are designed to face downwards and inwards so as to minimise any light spillage. The technical lighting study supporting the application demonstrates that light spillage from the deck will not adversely affect the amenity of neighbours as direct light will not reach the boundary.
- 6.47 The scheme incorporates measures to use light efficiently, for example, with motion sensors and dimmed levels when not in use. A condition is proposed to ensure that the lighting scheme is installed as proposed and maintained thereafter.
- 6.48 A further potential impact arises from the projection of car headlamps circulating on the new upper deck. At this level, surface planting will have a more limited screening effect. Whilst the separation distance will be a factor to some extent, by their nature, car headlamps would be capable of penetrating some distance and their potential impact exacerbated by their moving nature. It is therefore proposed that the sides of the upper deck facing towards residential neighbours to the east (and the ecologically sensitive area to the north) are solid, so as to prevent light escaping. The condition would also require the effectiveness of the installed screen to be verified post installation and for their maintenance / retention throughout the lifetime of the car park.
- 6.49 However, as the building will be potentially be visible at night when illuminated, there is the potential that its visual prominence could be reinforced, in particular during the winter months. This, however, is an issue of visual impact rather than amenity and for the reasons set out earlier in this report, through a combination of physical separation and the provision of enhanced boundary landscaping, it is not considered that this impact would be unacceptable and that, with the mitigation proposed, the proposals therefore accord with MBLP Policy DM8.

Air Quality

- 6.50 The NPPF states that the planning system should contribute to protecting and enhancing the environment and minimising pollution by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects, to be taken into account in planning decisions.
- 6.51 Development of this type has the potential to adversely affect air quality during both the construction phase and operational phase, with the potential to generate dust and fine particulate matter (PM10) during the construction phase and for road traffic nitrogen dioxide (NO2) and fine particulate matter (PM10 and PM2.5) during its operation.
- 6.52 Whilst construction impacts are not normally a planning matter, being addressed by other legislation, in this instance, due to the sensitivity of some surrounding receptors, a dust mitigation strategy will be part of the required construction management plan.
- 6.53 In terms of operational impacts, potential worsening of air quality would potentially arise if there were a significant increase in the level of traffic using the site and factors such as congestion. The above traffic assessment advises that the net impact of the scheme will be to reduce the impact of vehicles circulating the car park and surrounding area searching for an available space and also removing inappropriate parking both within and outside of the site. Having regard to the projected reduction in activity close to the boundary with residential neighbours, it

is not considered that there would be an adverse impact upon air quality within the application site, arguably a net benefit through a more efficient availability of parking and the removal of unnecessary movements. Air quality is also a sensitive issue on the nearby road network, primarily due to net traffic flows and congestion. At this stage there is no evidence that the scheme would generate significant level of additional traffic or exacerbate congestion, so no reasonable grounds to assume that existing air quality conditions would be adversely affected.

- 6.54 To conclude, it is considered that where necessary, mitigation measures can be imposed through conditions to ensure that any potential impacts upon the amenity of neighbours is adequately mitigated.

PUBLIC SECTOR EQUALITY DUTY

- 6.55 In considering this application due regard has been had to the Public Sector Equality Duty (PSED), as set out in Section 149 of the Equality Act 2010. A defined protected group includes 'pregnancy and maternity' and obviously the Hospital site provides care to this group as a whole, with a dedicated unit located towards the southern end of the eastern car park. The above assessment has therefore had regard to the potential of a risk of negative impacts. However, for the reasons set out in the above assessment, namely, no significant increase in traffic nor material worsening of environmental conditions, due to the separation of the car park from the maternity unit and through the imposition of planning conditions, I am satisfied that the PSED will not be undermined.

7. CONCLUSION

- 7.01 There is a clear need for the additional car parking in order to alleviate both operational impacts and the delivery of clinical care. The location of the deck is considered to be the optimum location in terms of mitigating any impact upon neighbours. Proposed mitigation measures will ensure that the changed character of parking provision will not adversely affect the amenity of neighbours, with the proposed biodiversity compensation and site wide enhancements offering the potential for a significant long-term net gain.

8. RECOMMENDATION

- 8.01 Subject to the framework of conditions suggested below, it is recommended that Members GRANT delegated authority to the Head of Planning to finalise the detailed wording of the necessary conditions and to issue the planning permission.

Proposed 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. In accordance with approved drawings

- 2) The materials to be used in the development hereby approved shall be as indicated on the approved plans and the Ballast Needham Design & Access Statement Ref J1335 dated 13.01.20, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

- 3) The development hereby approved shall not commence until a construction site management plan has been submitted to and approved in writing by the Local Planning Authority. Such plan shall provide measures for:
- Management of dust to prevent off-site impacts
 - Managing the impact of construction noise, dust and artificial lighting on adjacent sensitive receptors, namely residential properties and woodland:
 - Anticipated construction programme (including works undertaken at each stage)
 - Hours of working
 - Management of artificial lighting, including temporary lighting
 - Site security
 - Construction traffic routeing
 - Working hours
 - Site contact (including out of hours)
 - Storage and removal of waste
 - Storage of construction material
 - Wheel cleaning and street cleaning measures
 - Measures to prevent discharge of surface pollutants into the drainage system
 - Any necessary scheme for the protection or temporary closure of pedestrian footways

The construction method statement shall be made available for members of public to review upon request. The works shall be carried out in accordance with the approved method statement. The method statement shall also include details of the means of recycling materials, the provision of parking facilities for contractors during all stages of the development and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason: To ensure that the construction of the development minimises the construction impacts upon neighbours, ecological sensitivities and the hospital's delivery of clinical care.

- 4) Prior to the new parking deck hereby approved being brought into use a landscape and biodiversity enhancement scheme in accordance with the principles of the submitted Biodiversity Enhancement Report December 2019, shall be submitted for the approval in writing of the local planning authority. 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 [together with the location of any habitat piles] and include a planting specification, a programme of implementation and a [5] year management plan.

The landscape scheme shall specifically address the need to provide enhanced planting to screen the eastern boundary and notwithstanding the submitted plans, shall show an increased depth to the existing eastern boundary landscaped area.

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

- 5) Any existing trees or hedges retained on site or planted as part of the scheme to be approved under Condition 4, which, within a period of five years from the completion of the deck, die or become, in the opinion of the local planning authority, so seriously damaged or diseased that their long term amenity value has been

adversely affected, shall be replaced in the same location during the next planting season (October to February), with plants of an appropriate species and size to mitigate the impact of the loss as agreed in writing by the local planning authority.

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

- 6) Prior to the new parking deck hereby approved being brought into use a living wall scheme for the new car park deck shall be submitted for the approval in writing of the local planning authority. The scheme shall include, as a minimum, measures to address the eastern and northern elements. Such works shall be implemented within the first available planting season following completion of the new deck. The scheme shall include a management plan to ensure the establishment of the new planting, with measures to address the failure of any elements within the first five years.

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

- 7) Prior to the new parking deck hereby approved being brought into use, written confirmation of the installation and location of 12No. electric vehicle charging point has been installed on the given building(s) with dedicated off street parking, and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

- 8) No external lighting shall be installed on-site, other than in accordance within the 'Wirefield Maidstone Hospital MSCP-V2' lighting report dated 10.01.20 and S.11 of the Ballast Needham Design & Access Statement Ref J1335 dated 13.01.20 and maintained thereafter.

Reason: To ensure that artificial lighting is maintained at a level that does not adversely affect the amenity of residents or adjacent ecological habitat..

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

J1335-STRIPE-XX-00-SK-AX-30001-SITE LOCATION PLAN

J1335-Stripe-Xx-00-Sk-Ax-Xx-30002-Existing Site Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30003-Proposed Site Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30004-Proposed Ground Floor Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30005-Proposed Level 1 Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30500-Proposed Elevations

J1335-Stripe-Xx-00-Sk-Ax-Xx-30600-Proposed Sections

Ballast Needham Design & Access Statement Ref J1335 dated 13.01.20

Wirefield Maidstone Hospital MSCP-V2' lighting report dated 10.01.20

Kent Wildlife Trust Biodiversity Enhancement Report, December 2019

Reason: To clarify which plans and material have been approved.

INFORMATIVES

- 1) The Trust is encouraged to continue working with MBC, KCC and public transport operators with regard to the development and monitoring of a site-wide travel plan.
- 2) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. It is the applicant's responsibility to ensure that appropriate precautions are taken to ensure that an offence is not committed. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

Case Officer: Austin Mackie

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 27.02.2020**

APPEAL DECISIONS:

- | | | |
|-----------|-----------------------|---|
| 1. | 18/505100/OUT | DESCRIPTION

Outline application with all matters reserved for 80 extra care units with associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures.

APPEAL: Dismissed

Land At
George Street
Staplehurst
Kent

(Delegated) |
| <hr/> | | |
| 2. | 18/506333/FULL | DESCRIPTION

Erection of a three storey apartment building, comprising 18no. units and 18no. parking spaces at basement level.

APPEAL: Dismissed

Land On Site Of Former 51
London Road
Maidstone
Kent
ME16 8JE

(Delegated) |
| <hr/> | | |
| 3. | 19/500792/FULL | DESCRIPTION

Demolition of conservatory and erection of single storey rear extension with a pitched roof and insertion of two roof lights, creation of first |

floor pitched roof side extension over garage, front porch and part conversion of garage to living accommodation.

APPEAL: Dismissed

25 Kings Acre
Downswood
Maidstone
Kent
ME15 8UP

(Delegated)

4. 19/501219/REM

DESCRIPTION

Approval of reserved matters of access, appearance, landscaping, layout and scale following an outline application 15/501069/OUT for erection of four semi-detached dwellings with associated access, parking and landscaping following demolition of the existing dwelling and associated outbuildings.

APPEAL: Allowed

The Lodge
Hayle Place
Cripple Street
Maidstone
Kent
ME15 6DW

(Delegated)

5. 19/502802/FULL

DESCRIPTION

Demolition of existing garage, erection of part single, part two storey front and side extension with integral garage and single storey rear extension with covered terrace.

APPEAL: Dismissed

13 Garden Close
Maidstone
Kent
ME15 8AX

(Delegated)

6. 19/503141/FULL

DESCRIPTION

Erection of first floor front extension.

APPEAL: Dismissed

5 Nursery Avenue
Bearsted
Maidstone
Kent
ME14 4JS

(Delegated)

7. 19/500532/FULL

DESCRIPTION

Proposed loft extension, dormer to the rear with hip to gable roof structure.

APPEAL: Dismissed

1 Tower Lane
Bearsted
Maidstone
Kent
ME14 4JJ

(Delegated)

8. 19/501539/FULL

DESCRIPTION

Erection of single dwelling (Resubmission to 19/500310/FULL).

APPEAL: Dismissed

Land East Of Eyhorne Green House
Musket Lane
Hollingbourne
Maidstone
Kent
ME17 1UU

(Delegated)

9. 19/502575/FULL

DESCRIPTION

Proposed loft conversion (new roof) with hip to gable roof extension to side elevation (East), Juliet balcony to East side elevation, 1 No fixed rooflight to flat roof section and 2 No link-pitched dormer to rear elevation. (Resubmission to 18/504561/FULL)

APPEAL: Allowed

2 Toppesfield Park
Maidstone
Kent
ME14 5BF

(Delegated)

10. 19/502145/FULL

DESCRIPTION

Change of use of land from open space to private land; with a new fence and gates.

APPEAL: Dismissed

Church View
4 St Martins Close
Detling
Maidstone
Kent
ME14 3JS

(Delegated)

By virtue of paragraph(s) 5, 6a, 6b of Part 1 of Schedule 12A of the Local Government Act 1972.

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